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DEATH DUTIES.

THE FINANCE ACT, 1894.

(57 & 58 Vict. c. 30.)

WITH NOTES AND INDEX,

AND

AN INTRODUCTION

SPECIALLY DIRECTED TO THE

DEATH DUTIES

AS AFFECTED BY THE ACT.

BY

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PREFACE.

THE Finance Act, 1894, is here presented entire, with short explanatory notes, and prefaced by an Introduction in which an attempt is made to explain the character of the important alterations which the Act has effected in the amount and incidence of the Death Duties.

The Introduction is followed by Tables showing the amounts and incidence of the various duties, and at pp. xiv—xx by the Instructions and a List of the Forms issued under the Act by the Inland Revenue Authorities.

A full Index has been prepared referring to the topics of chief importance, both by sections and by pages.

J. M. L.

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THE TEMPLE: *August 24th*, 1894.



INTRODUCTORY OUTLINE.

THE Finance Act, 1894, which takes the place of the annual "Customs and Inland Revenue" Acts of many former years, is divided into six parts. The first and most important imposes and regulates a completely new "Estate Duty" on the property which passes by the death of persons who died on or after the 2nd of August, 1894; the second increases the customs duties on beer and spirits; the third increases the excise duties on beer and spirits; the fourth increases the income-tax generally, but also increases exemptions and abatements; the fifth contains two minute alterations of the Stamp Act of 1891; and the sixth alters the Imperial and Naval Defence Acts.

The last five parts may be left to speak for themselves. The first part may be considered under the heads of (1) The death duties before the Finance Act, and (2) the chief alterations effected by the Finance Act, and to these considerations will be subjoined short tables showing the duties as altered.

THE DEATH DUTIES BEFORE THE FINANCE ACT.

The death duties have long been of many kinds. There has been the duty on the affidavits required from persons applying for probates of wills, and letters of administration, generally known by the single name of the probate duty; the account duty; the legacy duty; the succession duty; and the temporary estate duty.

The probate duty, dating from 1694, and always imposed on personal property only, has been chiefly regulated by the Stamp Act of 1815 (55 Geo. 3, c. 184). From that date till 1880 it was higher in the case of letters of administration than in the case of wills. The Customs and Inland Revenue Act of 1880 abolished this distinction, and the Customs and Inland Revenue Act of 1881 substituted a simple 3 per cent. duty for a complex scale rising generally by thousands in proportion to the estate of the deceased.

The account duty was first imposed by s. 38 of the Customs and Inland Revenue Act, 1881. It appears to have been devised for the purpose of subjecting to probate duty gifts or half-gifts made by living persons for the purpose of relieving the donees from probate or legacy duty. To this duty, which was at the same 3 per cent. rate as the probate duty, were charged—

Any *donatio mortis causâ*, i.e., any gift made in anticipation of death, to take effect on death only, and completed by delivery (this kind of gift was, and still is, subject to legacy duty by 8 & 9 Vict. c. 76, s. 4).

A gift made within *three* months before the death of the deceased.

Any property voluntarily so transferred by the deceased to himself and another person that the interest herein passed by virtue of his death to such other person.

Any property passing under voluntary settlement whereby a life interest therein was reserved to the settlor.

The *three* months were extended to *twelve* by s. 11 of the Customs and Inland Revenue Act, 1889 (52 & 53 Vict. c. 7), and the net for the duty was otherwise spread wider, as will appear from p. viii., *post*, where sect. 38 of the Act of 1881 and sect. 11 of the Act of 1889 are set out at length.

The legacy duty, dating from 1780, has been, and still is, chiefly regulated by the Legacy Duty Act, 1796 (36 Geo. 3, c. 52), but the amount of the duty, except as altered in 1881, was, and still is, as fixed by the Stamp Act, 1815 (55 Geo. 3, c. 184). This duty falls upon the legatees in proportion to the degree of their relationship to the testator, upon a scale varying from one per cent. on a legacy to any lineal ancestor, or to ten per cent. on a legacy to a very distant relation or descendant, to a charitable institution or other stranger in blood to the testator (pp. xi., xii., xiii., *post*). Ancestors and descendants of the testator were released from this duty by s. 41 of the Customs and Inland Revenue Act, 1881 (45 Vict. c. 12), in all cases where probate duty had been paid—that is, in the great majority of cases in which legacies would be bequeathed. Neither husband nor wife of the testator were subject to this duty.

The succession duty is comparatively new, having been first created in 1853, when it was imposed on all successors to real property (including leaseholds), whether for an absolute or limited interest, and on all successors to personal property, either for a limited interest or in succession to a person having had a limited interest. This duty fell (and still falls) upon the successors upon a consanguinity scale, depending on their relationship to the “predecessors” or settlors (not to the persons by whose deaths they succeeded), similar to that fixed for legacies (p. xiii., *post*). The 41st section of the Customs and Inland Revenue Act, 1881, gave a similar relief from it to ancestors and descendants to that given in the case of legacies; and both the husband and the wife of the predecessor were exempted from the duty.

The succession duty has been twice increased in recent years. First in 1888, it was increased by half per cent. in the case of the successions of ancestors or descendants, and one and a half per cent. in the case of the successions of other persons, but this extra duty was not levied on leaseholds passing to the successor by will or devolution by law or on property subject to account duty. Secondly, in 1889 a further addition of one per cent. was imposed on successions exceeding ten thousand pounds in value.

The succession duty was levied, not on the whole value of the property succeeded to, but on the capitalized value of an annuity for the life of the successor equal to the annual value of the property, whether he succeeded to an absolute, or only to a limited, interest in the property. Tables showing the mode of valuation are scheduled to the Succession Duty Act, 1853.

The temporary estate duty was imposed by sects. 5 and 6 of the Customs and Inland Revenue Act, 1889, for a period ending on the 1st of June, 1896. It consisted of a further one per cent. on the probate and account duties, and likewise of a further one per cent. on the succession duties (as already stated), in cases where the property subject to the then existing duties exceeded £10,000 in value.

We have, therefore, prior to the Act of 1894—

(a) 3 per cent. probate and account duties rising to 4 per cent. where the property chargeable exceeded £10,000 in value.

(b) Legacy duties at a percentage rising with distance of relationship to testator, and, as a general rule, not falling on his children, and never falling on husband or wife of testator.

(c) Succession duties also at a percentage rising with distance of relationship to predecessor, and also one per cent. in case of successions exceeding £10,000 in value, but frequently not chargeable where the successors were children of the predecessors, and in no case chargeable on the husband or wife of the predecessor.

The alterations effected by the Finance Act affect only property passing on the death of persons dying on or after August 2nd, 1894.

They are mainly as follows:—

I. A completely new estate duty is created at a percentage rising from one to eight per cent. with the value of the property charged with it, and chargeable on all kinds of property, real as well as personal, settled as well as unsettled. The scale is set out in full at p. x.; but it may be mentioned here that the rate is three per cent. on an estate exceeding £1,000 in value and not exceeding £10,000, and four per cent. on an estate exceeding £10,000 in value and not exceeding £25,000.

II. In this new estate duty are merged the probate and account duties, the *additional* succession duties of 1888, and the estate duties of 1889 on probates and successions exceeding £10,000 in value. All these duties are abolished in the case of the estates of persons dying on or after August 2nd, 1894.

III. Where estate duty is paid, children and other descendants and parents and other ancestors are entirely freed from both legacy and succession duties (s. 1, and sched. I.). Succession duties are also further assimilated to legacy duties (1) by the assessment of the duty, in the case of succession to an interest of which the successor is competent to dispose (see s. 22 (2) (a)), upon the principal value of such interest instead of upon the capitalised value of an annuity for the life of the successor, and (2) by the charge of interest upon instalments (s. 18). Estates of £1,000 or less are relieved from both legacy and succession duties, as well as from "settlement estate duty" (s. 16). With these exceptions legacy and succession duties remain as before.

IV. There is imposed a *further* "settlement estate duty" at the rate of one per cent. on property passing by will or settlement for a life interest only, except where the only life interest is that of a wife or husband; but this "settlement estate duty" is payable once only during the continuance of the settlement (s. 5, sub-s. 1 (b)).

V. An executor or administrator is bound to disclose all he knows of any of the property, *real* as well as personal, which formed the estate of the deceased person whom he represents (s. 8 (3)). He is bound to pay all estate duty chargeable on the personal property, and may, if he pleases and on request of the parties accountable, pay all estate duty chargeable on the real property (s. 6 (2)).

VI. The husband or wife of a deceased person may become newly chargeable with duty on all real estate devised to them. They neither

were nor are liable to succession duty, but inasmuch as the estate duty on real property is borne by each of the parts into which such property is divided by devise, an estate devised to a wife or husband will become newly chargeable with duty under the name of estate duty (s. 8 (4)).

VII. A system of official valuation of property for the purposes of duty is set on foot by empowering the commissioners of inland revenue to have property valued by a person appointed by themselves (s. 7, sub-ss. 8, 9), and by requiring the county councils of each county to appoint valuers (s. 10 (6)).

INCIDENCE OF ESTATE DUTY.

Estate duty is payable on all property *passing* on the death of any person dying on or after the 2nd of August, 1894, and the second section of the Act contains, with much incorporation by reference of enactments of 1881 and 1889, and a material alteration of those enactments, a list, under four heads, of property so passing as to be subject to the duty.

Under the first head is placed property at the absolute disposal of the deceased, and under the second property in which he or another had an interest ceasing on his death, "to the extent to which a benefit arises by the cesser of such interest," exclusive, of course, of all official property, such as that of an incumbent in his ecclesiastical benefice. These two heads are, it is hoped, sufficiently explained in the notes to the section.

The third head is:—

(c) "Property which would be required on the death of the deceased to be included in an account under section thirty-eight of the Customs and Inland Revenue Act, 1881, as amended by section eleven of the Customs and Inland Revenue Act, 1889, if those sections were herein enacted and extended to real property as well as personal property, and the words 'voluntary' and 'voluntarily,' and a reference to a 'volunteer' were omitted therefrom."

The second sub-section of the 38th section of the Customs and Inland Revenue Act, 1881, thus incorporated, is as follows:—

The *personal or moveable* property to be included in an account shall be property of the following descriptions, viz:—

- (a) Any property taken as a *donatio mortis causâ* made by any person dying on or after the (1st day of June, 1881), or taken under a (voluntary) disposition made by any person so dying, purporting to operate as an immediate gift *inter vivos* whether by way of transfer, delivery, declaration of trust or otherwise which shall not have been *bonâ fide* made (three months) before the death of the deceased.
- (b) Any property which a person dying on or after such day having been absolutely entitled thereto has (voluntarily) caused, or may (voluntarily) cause to be transferred to or vested in himself or any other person jointly or whether by disposition or otherwise so that the beneficial interest therein or in some part thereof passes or accrues by survivorship on his death to such other person.
- (c) Any property passing under any past or future (voluntary) settlement made by any person dying on or after such day by deed or any other instrument not taking effect as a will whereby an interest in such property for life or any other period determinable by reference to death is reserved either expressly or by implication to the settlor, or whereby the settlor may have reserved to himself the right by the exercise of any power, to restore to himself or to reclaim the absolute interest in such property.

The amending sub-s. 1 of s. 11 of the Customs and Inland Revenue Act, 1889, is as follows:—

Sub-section two of section 38 of the Customs and Inland Revenue Act, 1881, is hereby amended as follows:—

The description of property marked (a) shall be read as if the word "twelve" was substituted for the word "three" therein and the said description of property taken under any gift, whenever made, of which property bonâ fide possession and enjoyment shall not have been assumed by the donee upon the gift and thenceforward retained to the entire exclusion of the donor or of any benefit to him by contract or otherwise.

The description of property marked (b) shall be construed as if the expression "to be transferred to, or vested in himself and any other person" included also any purchase or investment effected by the person who was absolutely entitled to the property either by himself alone, or in concert or by arrangement with any other person.

The description of property marked (c) shall be construed as if the expression "(voluntary) settlement" included any trust whether expressed in writing or otherwise (in favour of a volunteer) and if contained in deed or other instrument effecting the settlement whether such deed or other instrument was made for valuable consideration or not as between the settlor or any other person and as if the expression "such property" wherever the same occurs included the proceeds of sale thereof.

The charge under the said section shall extend to money received under a policy of assurance effected by any person dying on or after the first day of June, 1889, on his life where the policy is wholly kept up by him for the benefit of a donee, whether nominee or assignee or a part of such money in proportion to the premiums paid by him where the policy is partially kept up by him for such benefit.

And sub-s. 3 of s. 2 of the Finance Act, 1894, is as follows:—

Property passing on the death of the deceased shall not be deemed to include property held by the deceased as trustee for another person under a disposition not made by the deceased, or under a disposition made by the deceased more than twelve months before his death, where possession and enjoyment of the property was bonâ fide assumed by the beneficiary immediately upon the creation of the trust and thenceforward retained to the entire exclusion of the deceased or of any benefit to him by contract or otherwise.

The four enactments above set out, namely, sub-s. 2 of s. 38 of the Customs and Inland Revenue Act, 1881, sub-s. 1 of s. 11 of the Customs and Inland Revenue Act, 1889, sub-s. 1 (c) of s. 2 of the Finance Act, 1894, and sub-s. 3 of the same section are all aimed at the prevention of escape of an estate from death duty by gifts in one form or another by the owner during his lifetime. They are *in pari materiâ* with the eighth section of the Succession Duty Act, 1853 (16 & 17 Vict. c. 51), which provides as follows:—

Where any disposition of property shall purport to take effect presently, or under such circumstances as not to confer a succession, but by the effect or in consequence of any engagement, secret trust, or arrangement capable of being enforced in a Court of law or equity, the beneficial ownership of such property shall not bonâ fide pass according to such disposition, but shall in fact devolve to any person on death, or at some period ascertainable only by reference to death, then such last-mentioned person shall be deemed to acquire the property so passing as a succession derived from the person making the disposition as the predecessor; and where any Court of competent jurisdiction shall declare any disposition to have been fraudulent and made for the purpose of evading the duty imposed by this Act, it shall be lawful for such Court to declare a succession to have been conferred on such person at such time and to such an extent as such Court shall think just; and such last-mentioned person shall be deemed to have taken a succession accordingly derived from the person making such disposition as predecessor.

The eighth section of the Finance Act, 1894, provides that the existing law relating to any of the duties now leviable on or with reference to death shall, subject to the provisions of that act and so far as the same are applicable, apply for the purposes of the collection, recovery, and repayment of estate duty. It may, perhaps, be doubted whether the eighth section of the Succession Duty Act above set out is legally applicable within the meaning of the eighth section of the Finance Act, 1894, but is at any rate very clearly *in pari materiâ*, and very necessary to bear in mind in view of the numerous cases in which succession duty as well as estate duty are *primâ facie* payable.

The general result of the law on this subject appears to be that even out-and-out gifts, whether of real or personal property, made within twelve months of death are subject to an estate duty for which the donee will be accountable, and that the legality for revenue purposes of many of the transactions whereby an escape from duty is attempted within any period of time before death will be disputable on the ground that they are in effect tantamount to out-and-out gifts made within twelve months of death.

RATES OF ESTATE DUTY.
General Estate Duty (s. 17).

Where the <i>principal value</i> of the Estate				Estate duty is payable at the rate per cent. of
Exceeds	£	and does not exceed	£	
	100		500	one pound.
"	500	"	1,000	two pounds.
"	1,000	"	10,000	three pounds.
"	10,000	"	25,000	four pounds.
"	25,000	"	50,000	four pounds ten shillings.
"	50,000	"	75,000	five pounds.
"	75,000	"	100,000	five pounds ten shillings.
"	100,000	"	150,000	six pounds.
"	150,000	"	250,000	six pounds ten shillings.
"	250,000	"	500,000	seven pounds.
"	500,000	"	1,000,000	seven pounds ten shillings.
"	1,000,000			eight pounds.

Duty on fractional parts of ten pounds, over ten pounds or any multiple thereof, is payable at the rate per cent. for the full sum of ten pounds.

Where the *only* life interest under the settlement after the death of the deceased is that of the wife or husband of the deceased, no settlement estate duty is payable.

Duty on Small Estates (s. 16).

Where the gross value is under £100	nil.
Where the gross value (excluding property settled otherwise than by the testator's will)	a fixed duty of
Exceeds £100 and does not exceed £300	30s.
" 300 " " 500	50s.

NOTE.—The executor or successor has the *option* of paying on the *ad valorem* scale (see 44 & 45 Vict. c. 12, s. 33, incorporated by s. 16).

Where the *net* value of the real and personal property on which estate duty is payable on the death of the deceased (exclusive of property settled otherwise than by his will) does not exceed £1,000, this property is not to be aggregated with the rest of the settled property, and the *principal value* (s. 7 (5)) of the property in question is subject to estate duty, but no legacy, succession or settlement duty is payable (s. 16 (3)).

Settlement Estate Duty.

The further estate duty on settled property is chargeable at the fixed rate of one per cent. on the principal value of the settled property (s. 17).

NOTE.—This duty is payable when there is a tenant for life or other limited owner of the settled property and is payable only once during the

continuance of the settlement (s. 5). A limited owner who pays it is entitled to a charge on the property in respect of its amount, s. 9 (6).

Deduction.

In the case of a settlement of money or securities the amount of the 5s. *ad valorem* stamp duty charged on the settlement in respect of the property under the Stamp Act, 1891, may be deducted from the settlement estate duty (s. 5 (4)).

EXEMPTIONS FROM ESTATE DUTY.

The most important exemption from the estate duty is that effected by section 21 (1), which exempts *personal* property settled by a will or disposition made by a person dying *before* the 2nd August, 1894, in respect of which the probate and account duties have been paid, or unless the person, on whose death (after the 1st August, 1894) the property passed, was competent to dispose of the property at the time of his death, or had been so competent at any time after the will or disposition took effect.

Other exemptions are in favour of:—Settled property of every description in respect of which estate duty has been once paid since the date of the settlement. This exemption continues until the death of a person who was at the time of his death or at any time during the continuance of the settlement, competent to dispose of the property (ss. 5 (2), 22 (2) (a)).

Property settled by one spouse on the other by a disposition taking effect before the 2nd August, 1894, and reverting to the survivor (s. 21 (5)).

Reversionary interests *bonâ fide* sold or mortgaged for full consideration (s. 21 (3)).

Property passing by virtue of *bonâ fide* purchase for full consideration (s. 3 (1)).

Property held by the deceased as trustee for another (a) under a disposition not made by the deceased, or (b) under a disposition made by the deceased more than twelve months before his death, where possession *and* enjoyment has been *bonâ fide* assumed by the beneficiary immediately upon the creation of the trust, and thenceforward retained to the entire exclusion of the deceased or of any benefit to him by contract or otherwise (s. 2 (3)).

One survivorship annuity not exceeding £25 purchased or provided by the deceased (s. 15 (1)).

Pensions and annuities paid by the Indian government to the widows and children of its officials (s. 15 (3)).

Church patronage not sold (s. 15 (4)).

Books, pictures, or scientific collections bequeathed for national or municipal purposes, or to an university, provided that they appear to the treasury to be of national, scientific or historic interest (s. 15 (2)).

Estates of common seamen, marines, or soldiers dying in the service of her majesty (s. 8 (1)).

RATES OF LEGACY DUTY.

Duty upon legacies, and successions to personal estate (other than leaseholds) or moveable estate, upon intestacy (55 Geo. 3, c. 184, sched. pt. iii.).

(1) For every legacy, specific or pecuniary, or of any other description given by any will or testamentary instrument of any person either out of his personal or moveable estate, or charged upon his real or heritable estate, or out of moneys to arise by sale, mortgage or other disposition of his real or heritable estate, or any part thereof.

(2) For the clear residue (when devolving to one person) and for every share of the clear residue (when devolving upon two or more persons) of the personal or moveable estate of any person (after deducting debts, funeral expenses, legacies and other charges first payable thereout), whether the title to such residue accrues by virtue of a testamentary disposition or upon a particular total intestacy.

(3) Also for the clear residue (when given to one person) and for every share of the clear residue (when given to two or more persons) of the moneys to arise from the sale, mortgage or other disposition of any real or heritable estate directed to be sold, mortgaged or otherwise disposed of by any will or testamentary instrument of any person who shall have died after 5th day of April, 1895 (after deducting debts, funeral expenses, legacies and other charges first made payable thereout if any).

Rate per
cent. on
amount
or value
of legacy
or share.

[Where any such legacy or residue or any share of such residue shall have been given to or have devolved to or for the benefit of a child of the deceased or any descendant of a child of the deceased or to or for the benefit of the father or mother or any lineal ancestor of the deceased £1 0 0]

[For the most abrogated. See pp vi., 2, 32.]

Where any such legacy or residue or any share of such residue shall have been given to or shall have devolved to or for the benefit of a brother or sister of the deceased or any descendant of a brother or sister of the deceased. £3 0 0

Where any such legacy or residue or share of such residue shall have been given or shall devolve to or for the benefit of a brother or sister of the father or mother of the deceased or any descendant of a brother or sister of the father or mother of the deceased £5 0 0

Where any such legacy or residue or any share of such residue shall have been given or have devolved to or for the benefit of a brother or sister of a grandfather or grandmother of the deceased or any descendant of a brother or sister of a grandfather or grandmother of the deceased £6 0 0

Where any such legacy or residue or any share of such residue shall have been given or have devolved to or for the benefit of any person or any other degree of collateral consanguinity to the deceased than is above described, or to or for the benefit of any stranger in blood to the deceased £10 0 0

Gifts of annuities or by way of annuity of any such estate or effects as aforesaid are to be deemed legacies within the intent and meaning of the schedule.

Donations *mortis causá*, and charges on property which the deceased

has a right to burden, charge, or affect with payment of money, are also subject to the legacy duties (8 & 9 Vict. c. 76, s. 4).

Where a legacy is left or dutiable property devolves to a person whose husband or wife is of nearer consanguinity than himself or herself to the deceased the duty payable shall be the same as if the legacy had been left, or the property had devolved, to such husband or wife (16 & 17 Vict. c. 51, s. 11).

Exemptions from Legacy Duty.

1. Legacies and residues or shares of residue of any such estate or effects as aforesaid given or devolving to or for the benefit of the husband or wife of the deceased, or to or for the benefit of any of the royal family.

2. Leaseholds (16 & 17 Vict. c. 51, s. 19).

3. *Legacies and residues or shares of residue of any such estate or effects as aforesaid upon which duty would be payable at the rate of one per cent., where the estate duty under the Finance Act, 1894, has been paid on the property out of which the legacies or residue or share of residue are given or devolve* (57 & 58 Vict. c. 30, s. 1, sched. I.).

NOTE.—This provision is in substitution *pro tanto* for 44 Vict. c. 12, s. 41.

4. All legacies exempted from duty by 39 Geo. 3, c. 73, for exempting certain specific legacies given to bodies corporate or other public bodies from the payment of duty.

5. Legacies and residues or shares of residue of any such estate or effects as aforesaid where it appears upon examination of the account rendered to the commissioners of inland revenue that the value of the whole of the personal estate of any person dying after 24th March, 1880, does not amount to the sum of £100 (43 Vict. c. 14, s. 13).

6. Legacies, etc., payable out of an estate the gross value whereof (whether of real or personal property) does not exceed £500, and upon which the fixed duty of 30s. or 50s. has been paid (44 Vict. c. 12, ss. 33, 35, 36, as modified by 57 & 58 Vict. c. 30, s. 16).

7. Legacies payable, etc., out of an estate, the net value whereof (excluding property not settled by the will of the deceased but passing at his death) does not exceed £1,000, and upon which estate duty or the fixed duty has been paid (57 & 58 Vict. c. 30, s. 16 (3)).

NOTE.—The exemption given by 55 Geo. 3, c. 184, to legacies of an amount or value under £20, was taken away by s. 42 of the Customs and Inland Revenue Act, 1881 (44 Vict. c. 12).

RATES OF SUCCESSION DUTY.

On succession to real estate, including leaseholds (16 & 17 Vict. c. 51, s. 10).

Where the successor is	Rate per cent. on the value of the succession.
Lineal ancestor or descendant of the predecessor.	one
Brother or sister or descendant of a brother or sister of the predecessor	three

Where the successor is	Rate per cent. on the value of the succession.
Brother or sister of the father or mother or a descendant, or a descendant of a brother or sister of the father or mother of a predecessor	five
Brother or sister of the grandfather or grandmother or a descendant of a brother or sister of the grandfather or grandmother of the predecessor	six
In any other degree of collateral consanguinity than is hereinbefore described, or a stranger in blood to him	ten

Where a person taking a succession has had a wife or husband of nearer consanguinity to the predecessor, the duty payable is to be at the same rate as if the wife or husband had taken the succession (16 & 17 Vict. c. 51, s. 11).

NOTE.—The exemption given by 16 & 17 Vict. c. 51, s. 18, to successions of a less value than £20 was taken away by s. 10 of the Customs and Inland Revenue Act, 1889 (52 & 53 Vict. c. 7). Where the successor is competent to dispose of the property, the percentage is calculated on the principal value of the estate, to be determined as prescribed by the Finance Act, 1894, s. 18. In other cases the value of the succession is a capitalized annuity on the life of the successor (16 & 17 Vict. c. 51, s. 21).

Exemptions from Succession Duty.

Where the principal value of the whole succession does not amount to £100 (16 & 17 Vict. c. 51, s. 18).

Where the gross value of the property, real or personal, left by the deceased in respect of which estate duty is payable on the death of the deceased (exclusive of property settled otherwise than by the will of the deceased) exceeds £100 but does not exceed £500 and the fixed estate duty of 30s. or 50s. has been paid thereon (57 & 58 Vict. c. 30, s. 16 (1)).

Where the net value of such last-mentioned real and personal estate of the deceased (exclusive of property settled otherwise than by his will), does not exceed £1,000, and the fixed or estate duty has been paid thereon (57 & 58 Vict. c. 30, s. 16 (2)).

Successions to advowsons and church patronages, unless or until the successor sells them (16 & 17 Vict. c. 51, s. 24).

Successions of lineals. (See vi., 2, 32.)

Inland Revenue Instructions.

The inland revenue authorities have issued a series of forms of account, etc., and with them the following (headed "Form A. 2") :—

INSTRUCTIONS AS TO ESTATE DUTY ON PROPERTY PASSING AT THE DEATHS OF PERSONS DYING AFTER THE 1ST AUGUST, 1894, FINANCE ACT, 1894 (57 & 58 VICT. c. 30).

Charge of Duty.—Estate duty, except as expressly provided, is leviable upon the principal value of all property, real or personal, settled or not settled, which passes on the death of a person who dies after the 1st of August, 1894. [See sects. 1 and 24.]

Property liable.—Property so passing includes (*inter alia*) the following [see sec. 2].—

Competent to dispose.—Property of which the deceased was *competent to dispose* [see sec. 22 (2) (a)] at his death, whether he actually disposed of it by his will or not.

Donations.—Donations *mortis causâ*.

Gifts.—*Inter vivos* gifts of property made by the deceased within a year of his death without reservation.

Gifts with reservation.—*Inter vivos* gifts made by the deceased at any time, whereof *bonâ fide* possession was not immediately taken and thenceforth retained to the entire exclusion of the deceased, but a benefit, either charged upon the property or not, was reserved or secured to the deceased by contract or otherwise, or a power or authority was reserved to the deceased to restore to himself or to reclaim the absolute interest in such property or in some part of it.

Joint Investments.—Property which the deceased, having been absolutely entitled thereto, either by himself alone or by arrangement with some other person, caused to be transferred to or vested in himself and some other person jointly, either by disposition, purchase, investment, or otherwise, so that the beneficial interest in such property, or in some part thereof, passed or accrued by survivorship on his death to such other person.

Life interest.—Property which the deceased had an enjoyment of or interest in for life, or for some period determinable by reference to death under an express or an implied trust in a settlement made by the deceased by instrument *inter vivos*, or under an express or implied trust, created by the deceased in writing or otherwise.

Policies.—Policies which the deceased effected on his life, and kept up wholly or partially for the benefit of a donee, whether nominee or assignee.

Annuities.—Annuities (other than [see sec. 15 (1)] a single annuity not exceeding £25, or the first granted of two or more such annuities), or other interests, which the deceased, either by himself alone, or in concert or by arrangement with some other person, purchased or provided so that a benefit arose or accrued by survivorship or otherwise, on the death of the deceased.

Other property.—Property not comprised in any of the foregoing classes in which the deceased or some other person had an interest which ceased on the death of the deceased, to the extent to which a benefit accrued or arose by the cesser of such interest, but exclusive of property the interest in which, of the deceased or other person, was only an interest as holder of an office or recipient of the benefits of a charity, or as a corporation sole.

Definition of "Property."—The expression "property" includes real property and personal property, and the proceeds of sale thereof respectively, and any money or investment for the time being representing the proceeds of sale. [See sec. 22 (1) (f).]

Property passing on the death includes property passing either immediately on the death, or after any interval, or at a period ascertainable only by reference to death, either certainly or contingently, and either originally or by way of substitutive limitation. [See sec. 22 (1) (1).]

Competent to dispose.—A person is deemed *competent to dispose* of property if he has such an estate or interest therein, or such general power as would, if he were *sui juris*, enable him to dispose of the property, including a tenant in tail, whether in possession or not; and the expression, "general power," includes every power or authority enabling the donee or other holder thereof to appoint or dispose of property as he thinks fit, whether exercisable by instrument, *inter vivos*, or by will, or both, but exclusive of any power exercisable in a fiduciary capacity under a disposition not made by himself, or exercisable as tenant for life under the Settled Land Act, 1882, or as mortgagee. [See sec. 22 (2) (a).]

Money which a person has a general power to charge on property is deemed to be property of which he has power to dispose. [See sec. 22 (2) (c).]

Foreign property.—Immoveable property situate out of the United Kingdom is not chargeable with estate duty. [See sec. 2 (2).]

Moveable property situate out of the United Kingdom is not chargeable with estate duty where the deceased was the owner and was domiciled out of the United Kingdom at the time of his death. It is chargeable where the deceased was the owner and was domiciled in the United Kingdom at the time of his death. It is also, speaking generally, chargeable where the deceased was only interested, for life, and at his death the property formed the subject of a British trust or was vested in a British trustee. [See sec. 2 (2).]

Colonial property.—In the case of moveable property situate in a British possession, and passing at the death of a person dying domiciled in the United Kingdom, if any duty in respect thereof is payable in the British possession, a sum equal to the amount of that duty is to be deducted from the estate duty payable in respect of that property on the same death; but only where by the law of such possession either no duty is chargeable in respect of property situate in the United Kingdom when passing on death, or a like allowance as against the duty chargeable in such possession is made in respect of any duty payable in the United Kingdom. This provision only applies to such British

possessions as are from time to time brought within its scope by order in council. [See sec. 20.]

Exceptions. Trust property.—Estate duty is not payable on property held by the deceased as trustee for another person under a disposition not made by the deceased, or under a disposition made by the deceased more than 12 months before his death, where possession and enjoyment of the property was *bonâ fide* assumed by the beneficiary immediately upon the creation of the trust, and thenceforward retained to the entire exclusion of the deceased, or of any benefit to him by contract or otherwise. [See sec. 2 (3).]

Purchase.—Estate duty is not payable on property passing on the death of the deceased by reason only of a *bonâ fide* purchase from the person under whose disposition the property passes, or the falling into possession of the reversion on any lease for lives, or the determination of any annuity for lives, where such purchase was made, or such lease or annuity granted, for full consideration in money or money's worth paid to the vendor or grantor for his own use or benefit, or in the case of a lease for the use or benefit of any person for whom the grantor was a trustee. [See sec. 3 (1).] When any such purchase was made, or lease or annuity granted, for partial consideration in money or money's worth paid to the vendor or grantor for his own use or benefit, or in the case of a lease for the use or benefit of any person for whom the grantor was a trustee, the value of the consideration is allowed as a deduction from the value of the property. [See sec. 3 (2).]

Seamen.—Estate duty is not payable on the property of common seamen, marines, or soldiers who are slain or die in Her Majesty's service. [See sec. 8 (1).]

Indian pensions.—Estate duty is not payable on any pension or annuity payable by the Government of British India to the widow or child of any deceased officer of such Government, notwithstanding that the deceased contributed during his life-time to any fund out of which such pension or annuity is paid. [See sec. 15 (3).]

Gifts to Nation.—The Treasury may remit the duty on such pictures, prints, books, manuscripts, works of art, or scientific collections, as appear to them of national, scientific, or historic interest, and given for national purposes, or to any university, or to any county council or municipal corporation. [See sec. 15 (2).]

Husband and Wife.—Where a husband or wife is entitled, either solely or jointly with the other, to the income of any property settled by the other under a disposition which has taken effect before the 2nd August, 1894, and on his or her death the survivor becomes entitled to the income of the property settled by such survivor, the estate duty is not payable in respect of that property until the death of the survivor. [See sec. 21 (5).]

Aggregation, Estate by itself.—For determining the rate of estate duty to be paid on any property passing at the deceased's death, all property so passing, in respect of which estate duty is leviable, is to be aggregated so as to form one estate, and the duty is to be levied at the proper rate on the principal value thereof. Provided that any property so passing in which the deceased never had an interest, or which, under a disposition not made by the deceased, passes immediately on the death of the deceased to some person other than the wife or husband or a lineal ancestor or descendant of the deceased, is not to be aggregated with any other property, but is to be an estate by itself, and the estate duty is to be levied at the proper rate on the principal value thereof, but if any benefit under such a disposition is reserved or given to the wife or husband or a lineal ancestor or descendant of the deceased, such benefit is to be aggregated with property of the deceased for the purpose of determining the rate of estate duty. [See sec. 4.]

Small Estate.—Where the net value of the property, real and personal, on which estate duty is payable on the death of the deceased, exclusive of property settled otherwise than by the will of the deceased, does not exceed £1,000, such property is not to be aggregated with any other property, but is to form an estate by itself. [See sec. 16 (3).]

Gifts to Nation.—Gifts of pictures, prints, books, manuscripts, works of art and scientific collections, of national, scientific, or historic importance, given for national purposes, or to any university, or to any county council or municipal corporation, the estate duty whereon has been remitted by the Treasury, are not to be aggregated with any other property. [See sec. 15 (2).]

Exception where probate or account duty paid.—Estate duty is not payable on the deceased's death in respect of personal property settled by a will or disposition made by a person dying before the 2nd August, 1894, in respect of which property probate, inventory, or account duty has been paid, or is payable, unless in either case the deceased, at the time of his death, or at any time since the will or disposition took effect had been competent to dispose of the property. [See sec. 21 (1).]

Church patronage.—Estate duty is not payable upon any advowson or Church patronage unless and until the same is sold. [See sec. 15 (4).]

Settled property.—Where property, in respect of which estate duty is leviable, is settled by the will of the deceased, or having been settled by some other disposition passes under the disposition on the death of the deceased to some person not competent to dispose [see sec. 22 (2) (a)] of the property, a further estate duty called "settlement

estate duty" is leviable upon the principal value of the settled property, except where the only life interest in such property, after the deceased's death, is that of the husband or wife of the deceased [see sec. 5 (1) (a)], or where the disposition took effect before the 2nd August, 1894 [see sec. 21 (1) (4)], or where the provisions of sec. 16 (3) apply.

Estate Duty not twice payable under same settlement.—If the estate duty has already been paid in respect of the settled property since the date of the settlement, neither it nor the settlement estate duty is again payable in respect thereof, unless the deceased was, at the time of his death, or had been at any time during the continuance of the settlement, competent to dispose [see sec. 22 (2) (a)] thereof. [See sec. 5 (2).]

Where interest fails before possession and settlement continues.—In the case of settled property where the interest of any person under the settlement fails or determines by reason of his death before it becomes an interest in possession, and subsequent limitations under the settlement continue to subsist, the property is not deemed to pass on his death. [See sec. 5 (3).]

Deduction of Stamp duty paid on settlement.—The *ad valorem* stamp duty (if any) charged on a settlement may be deducted from the settlement estate duty payable thereunder [see sec. 5 (4)], but the settlement must be produced in support of the deduction.

Crown Entails.—Where lands or chattels are so settled by Act of Parliament or Royal grant that no one of the persons successively entitled can alienate the same, the settlement estate duty is not payable. [See sec. 5 (5).]

What duty Executor liable for.—The executor of the deceased is to pay the estate duty in respect of all personal property, wheresoever situate, of which the deceased was competent to dispose [see sec. 22 (2) (a)] at his death, on delivering the Inland Revenue affidavit, and may pay in like manner the estate duty on any other property passing on such death, which by virtue of any testamentary disposition of the deceased is under the control of the executor, or in the case of property not under his control, if the persons accountable for the duty thereon request him to make such payment. [See secs. 6 (2) and 8 (3).] The executor is not liable for any estate duty in excess of the assets which he has received as executor, or might, but for his own neglect or default, have received. [See sec. 8 (3).]

Other persons accountable.—Where property passes on the death of the deceased, and his executor is not accountable for the estate duty thereon, every person to whom any property so passes for any beneficial interest in possession, and also, to the extent of the property actually received or disposed of by him, every trustee, guardian, committee or other person in whom any interest in the property so passing or the management thereof is at any time vested, and every person in whom the same is vested in possession by alienation or other derivative title, is accountable for the estate duty on the property. [See sec. 8 (4).]

Purchaser without notice.—A *bond fide* purchaser for valuable consideration without notice is not liable to or accountable for duty. [See sec. 8 (18).]

An Account to be delivered.—Estate duty, so far as not paid by the executor, is collected upon an account setting forth the particulars of the property. It is to be delivered to the Commissioners of Inland Revenue within six months after the death by the person accountable for the duty. [See sec. 6 (4).]

Principal value.—The principal value of any property is the price which, in the opinion of the commissioners, such property would fetch if sold in the open market at the time of the deceased's death. [See sec. 7 (5).] Provided that in the case of any agricultural property, where no part of the principal value is due to the expectation of an increased income from such property, the principal value shall not exceed twenty-five times the annual value, as assessed under Schedule A of the Income Tax Acts, after making such deductions as have not been allowed in that assessment, and are allowed under the Succession Duty Act, 1853, and making a deduction for expenses of management not exceeding five per cent. of the annual value so assessed. [See sec. 7 (5).]

Agricultural property.—The expression, "agricultural property," means agricultural land, pastures, and woodland, and also includes such cottages, farm buildings, farm houses, and mansion houses (together with the lands occupied therewith) as are of a character appropriate to the property. [See sec. 22 (1) (g).]

Cesser of an interest.—The value of the benefit accruing or arising from the cesser of the interest of a deceased person in any property is the principal value of the property where the interest extended to the whole income of the property, but where it extended to less than the whole income it is the principal value of an addition to the property equal to the income to which the interest extended. [See sec. 7 (7).]

Crown Entails.—When lands or chattels are so settled by Act of Parliament or Royal grant that no one of the persons successively entitled can alienate the same, the property passing on the death of any person in possession thereof is the interest of his successor, and the value is the same as the value for succession duty. [See sec. 5 (5), and 16 & 17 Vict. c. 51, sec. 21.]

Administration Expenses of property out of the United Kingdom.—When the commissioners are satisfied that any additional expense in administering or in realising foreign

property has been incurred by reason of the property being situate out of the United Kingdom, an allowance for such expense not exceeding 5 per cent. on the value of the property is made. [See sec. 7 (3).]

Foreign duty.—When the commissioners are satisfied that by reason of the deceased's death any duty in respect of foreign property is payable in the country where the property is situate, an allowance of the amount of the duty is made from the value of the property. [See sec. 7 (4).]

Income and Interest.—Every estate is to include all income upon the property included therein down to and outstanding at the date of the deceased's death. [See sec. 6 (5).]

Funeral Expenses and Debts.—Allowances against the gross principal value of an estate is made for reasonable funeral expenses and for debts and incumbrances (including mortgages or terminable charges [see sec. 22 (1) (k)]) incurred or created by the deceased *bonâ fide* for full consideration in money or money's worth wholly for his own use or benefit, and which take effect out of his interest. [See sec. 7 (1) (a).]

Debts in respect whereof re-imbursement claimable.—No allowance can be made for any debt in respect whereof there is a right to re-imbursement from any other estate or person unless such re-imbursement cannot be obtained. [See sec. 7 (1) (b).]

Foreign Debts.—An allowance is not made in the first instance for debts due from the deceased to persons resident out of the United Kingdom, unless contracted to be paid in the United Kingdom or charged on property situate within the United Kingdom, except out of the value of any personal property of the deceased situate out of the United Kingdom on which estate duty is paid. No repayment of estate duty is made in respect of any such debts except to the extent to which the personal property of the deceased situate out of the United Kingdom is shewn to be insufficient for their payment. [See sec. 7 (2).]

Interests in Expectancy.—Where an estate includes an interest in expectancy (and this expression covers an estate in remainder or reversion, and every other future interest, whether vested or contingent, but does not include reversions expectant upon the determination of leases [see sec. 22 (1) (j)]) estate duty in respect of that interest is to be paid, at the option of the person accountable for the duty, either with the duty on the rest of the estate or when the interest falls into possession. [See sec. 7 (6).] If the duty is not paid with the estate duty on the rest of the estate, then for the purpose of determining the rate of estate duty in respect of the rest of the estate, the value of the interest is to be its value at the date of the death of the deceased. [See sec. 7 (6) (a).] The rate of estate duty upon the interest when it falls into possession is to be calculated according to its value at that time, together with the value of the rest of the estate as previously ascertained. [See sec. 7 (6) (b).]

Commutation on interests in Expectancy.—The commissioners, in their discretion, upon application by a person entitled to an interest in expectancy, may commute the estate duty which would or might, but for the commutation, become payable in respect of such interest for a certain sum to be presently paid, and for determining that sum they will put a present value upon that duty, regard being had to the contingencies affecting the liability to, and rate and amount of, such duty. [See sec. 12.]

Where interest in expectancy sold or mortgaged.—Where an interest in expectancy has, before the 2nd August, 1894, been *bonâ fide* sold or mortgaged for full consideration in money or money's worth, then no other duty on such property is payable by the purchaser or mortgagee when the interest falls into possession than would have been payable if the Finance Act, 1894, had not passed. In the case of a mortgage any higher duty payable by the mortgagor is to rank as a charge subsequent to that of the mortgagee. [See sec. 21 (3).]

When duty is due.—The duty, which is to be collected upon an Inland Revenue affidavit or account, is due on the delivery thereof, or at the expiration of six months from the death, whichever first happens. [See sec. 6 (7).]

Payment of additional duty.—Estate duty is, in the first instance, calculated at the appropriate rate according to the value of the estate, as set forth in the Inland Revenue affidavit or account delivered, but if afterwards it appears that for any reason too little duty has been paid, the additional duty is payable, and is treated as duty in arrear. [See sec. 8 (7).]

Interest on duty.—Interest at 3 per cent. per annum on the estate duty is payable from the date of the death up to the date of the delivery of the Inland Revenue affidavit or account or the expiration of six months after the death, whichever first happens, and is to form part of the estate duty. [See sec. 6 (6).]

Interest on fixed duty.—When the fixed duty of 30s. or 50s. under sec. 16 is paid within 12 months after the death of the deceased, interest is not charged. [See sec. 16 (5).]

Instalments on real property.—The duty due upon an account of real property may, at the option of the person delivering the account, be paid by eight equal yearly instalments or sixteen half-yearly instalments, with interest at the rate of three per cent. per annum from the date at which the first instalment is due, less income-tax, and the first instalment is to be due at the expiration of twelve months from the death, and the interest on the unpaid portion of the duty is to be added to each instalment and paid accordingly, but the duty for the time being unpaid, with such interest to the date of

payment, may be paid at any time, and, in case the property is sold, is to be paid on completion of the sale, and if not so paid, is to be duty in arrear. [See sec. 6 (8).]

Interest on arrears of duty.—Interest on arrears of estate duty is to be paid as if they were arrears of legacy duty. [See sec. 8 (10).] Interest on arrears of legacy duty is chargeable at the rate of four per cent. per annum. See 31 & 32 Vict. c. 124, sec. 9.

Executor to disclose Estate.—The executor of the deceased is, to the best of his knowledge and belief, to specify in appropriate accounts annexed to the Inland Revenue affidavit *all* the property in respect of which estate duty is payable upon the death of the deceased, whether he is or is not accountable for the duty thereon. [See sec. 8 (3).]

Production of books, &c.—Accounts and statements are to be verified on oath, and by production of all necessary books and documents. [See sec. 8 (14).]

Power of Commissioners to call for accounts.—Every person accountable for estate duty, and every person whom the commissioners believe to have taken possession of or administered any part of the estate of the deceased or of the income thereof, is, to the best of his knowledge and belief, if required by the commissioners, to deliver to them and verify a statement of such particulars and evidence as they require, relating to any property which they have reason to believe to form part of an estate, in respect of which estate duty is leviable on the death of the deceased. [See sec. 8 (5).]

Penalties.—Penalties are provided for the wilful failure to deliver accounts or to comply with the requirements which the commissioners are empowered to make. [See sec. 8 (6) and (14).]

Rates of Estate Duty.—The rates of estate duty are according to the following scale. [See sec. 17.]

Principal value of the estate.				Rate per cent.
	£		£	
Above	100	but not above	500	1
"	500	"	1,000	2
"	1,000	"	10,000	3
"	10,000	"	25,000	4
"	25,000	"	50,000	4½
"	50,000	"	75,000	5
"	75,000	"	100,000	5½
"	100,000	"	150,000	6
"	150,000	"	250,000	6½
"	250,000	"	500,000	7
"	500,000	"	1,000,000	7½
"	1,000,000	"	"	8

Rate of Settlement Estate Duty.—The rate of the settlement estate duty is one per cent. [See sec. 17.]

Fractions of £10 capital to count as £10.—Provided that for any fractional part of £10 over £10, or any multiple thereof, estate duty and settlement estate duty are payable at the rate per cent. for the full sum of £10 [see sec. 17], *e.g.*, the duty on £1,109 is calculated as on £1,110, and the duty on £4,231 as on £4,240.

Estates not above £500 gross.—Where the GROSS value of the property real and personal on which estate duty is payable on the death of the deceased exclusive of property settled otherwise than by the will of the deceased exceeds £100, but does not exceed £300, a fixed duty of 30s. *may be* paid, and where it exceeds £300 but does not exceed £500, a fixed duty of 50s. *may be* paid. [See sec. 16 (1).] Should the gross value have been wrongly stated as not over £300 or £500 as the case may be, the duty according to the correct value will be payable, and the 30s. or 50s. wrongly paid will be forfeited. [See sec. 16 (1), embodying and extending 44 Vict. c. 12, s. 35.]

Option.—The *ad valorem* duty according to the scale may in all cases be paid instead of the fixed duty of 30s. or 50s. [See sec. 16 (2), and sec. 16 (1), embodying and extending 44 Vict. c. 12, sec. 33.]

Exemption from other Duties in cases not over £1,000 net.—Where the NET value of the property real and personal, on which estate duty is payable on the death of the deceased, exclusive of property settled otherwise than by the will of the deceased, does not exceed £1,000, and the fixed duty or *ad valorem* estate duty has been paid upon the principal value of that estate, the settlement estate duty and the legacy and succession duties are not payable under the will or intestacy of the deceased in respect of that estate. [See sec. 16 (3).]

The Forms in use are:—

Affidavits.

FORMS IN USE. A—1. Inland Revenue Affidavit for Probate or Administration, except where B—1 is applicable.

No. 17. Summary of Duty and Interest: To accompany Form A—1.

B—1. Inland Revenue Affidavit for Probate or Administration where the GROSS principal value of the property, real and personal, in respect of which estate duty is leviable on the death of the deceased, *exclusive* of property settled otherwise than by the will of the deceased, does not exceed £500, and, if any estate duty is payable thereon, the fixed duty of 30s. or 50s. is to be paid.

A—3. Form to accompany the Form A—1, where the deceased has been dead more than 12 months and the executor wishes to pay estate duty on real property.

D—1. (In duplicate.) Corrective Affidavit.

Accounts.

C—1. (In duplicate.) Account of property which passed at the death, but the estate duty whereon was not paid on the Inland Revenue Affidavit.

C—2. (In duplicate.) Account for Settlement Estate Duty.

C—3. Account for second and subsequent instalments of estate duty on real property.

D—2. (In duplicate.) Corrective Account.

All the forms can be obtained of any Collector of Inland Revenue or by personal application at the Legacy and Succession Duty Office, Somerset House.

The forms A—1, A—3, and B—1, can be obtained of any Probate Registrar.

Where forms obtainable.—All the forms except A—3 can be obtained at any Money Order Post Office outside the Metropolitan Postal District.

Deaths on or before 1st August, 1894.—Where a person dies on or before the 1st August, 1894, the duties in force immediately prior to the commencement of the Finance Act, 1894, continue to be payable [see sec. 21 (2)], and the above forms are not applicable.

Delivery of Affidavits and Accounts.—The Inland Revenue Affidavit is to be delivered by the Probate Registrar on application for Representation. Accounts and corrective affidavits are to be delivered personally or by an agent at the Legacy and Succession Duty Office, Somerset House, London, W.C., or *where duty is to be paid*, they may be sent there through the post from an address *outside* the Metropolitan Postal District. They will be examined, and instructions as to the amount of duty and how to pay it will be issued. *Where duty is to be returned* the corrective Affidavit or Account must in all cases be presented personally or by an agent at the Legacy and Succession Duty Office.

LEGACY AND SUCCESSION DUTIES.—Separate instructions are issued for the payment of Legacy and Succession Duties.

FINANCE ACT, 1894.

FINANCE ACT, 1894.

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57 & 58 Vict. c. 30. An Act to grant certain Duties of Customs and Inland Revenue, to alter other Duties, and to amend the Law relating to Customs and Inland Revenue, and to make other provision for the financial arrangements of the year.

[31st July, 1894]

BE IT ENACTED as follows :

PART I.—ESTATE DUTY.

Grant of Estate Duty.

Grant of estate duty on property "passing on death" of person dying on or after August 2nd, 1894.

1. In the case of every person dying after the commencement of this part (a) of this act, there shall, save as hereinafter expressly provided (b), be levied and paid, upon the principal value ascertained as hereinafter provided (c) of all property (d), real or personal, settled or not settled, which passes (e) on the death of such person a duty, called "estate duty," at the graduated rates hereinafter mentioned (f), and the existing duties mentioned in the first schedule to this act (g) shall not be levied in respect of property chargeable with such estate duty.

(a) "On or after the 2nd August, 1894." See s. 24.

(b) See ss. 2 (2) and (3), 3, 15, 16, and the "savings" of s. 21. A widow is not exempted from estate duty, but is in certain events exempt from settlement estate duty under ss. 5, 22 (3), post.

(c) See ss. 7 (5), (8), 8, and 10 (6).

(d) For definition of "property," see s. 22 (1) (f).

(e) Whether by will or letters of administration, or settlement; and see ss. 2, 22 (i) (1).

(f) See s. 17 and note (cc).

(g) These duties, which are merged in the new estate duty created by this act, are shortly :—

(1) The probate, or in case of intestacy, administration, duty, depending for its 3 per cent. amount on Part III. of the Customs and Inland Revenue Act, 1881.

(2) The account duty (see s. 2 (1) (c) and note), created by s. 38 of the same act.

(3) The additional succession duties of $\frac{1}{2}$ per cent. on lineal issue or ancestors, and of $1\frac{1}{2}$ on other persons, created by the Customs and Inland Revenue Act, 1888, s. 21.

(4) The temporary "estate duty" imposed by ss. 5 and 6 of the Customs and Inland Revenue Act, 1889, of an additional 1 per cent. probate duty or succession duty on the value of any estate or succession exceeding 10,000l.

(5) The legacy or succession duties payable at the rate of 1 per cent. by lineal issue or ancestors under the Stamp Act, 1815, and the Succession Duty Act, 1853.

[The legacy and succession duties on lineals, mentioned in (5), had already been merged in the 3 per cent. probate duty fixed by the act of 1881. By s. 41 of that act, all other legacy and succession duties will continue to be payable

2.—(1) Property passing on the death of the deceased shall be deemed to include the property following, that is to say:—

57 & 58 Vict.
c. 30, s. 2.

(a) Property of which the deceased was at the time of his death competent to dispose (*h*);

What property
is deemed to
pass.

(b) Property in which the deceased or any other person had an interest ceasing on the death of the deceased, to the extent to which a benefit accrues or arises by the cesser of such interest (*i*); but exclusive of property the interest in which of the deceased or other person was only an interest as holder of an office, or recipient of the benefits of a charity, or as a corporation sole (*j*);

(c) Property which would be required on the death of the deceased to be included in an account under section thirty-eight of the Customs and Inland Revenue Act, 1881, as amended by section eleven of the Customs and Inland Revenue Act, 1889 (*k*), if those sections were herein enacted and extended to real property as well as personal property, and the words “voluntary” and “voluntarily” and a reference to a “volunteer” were omitted (*l*) therefrom; and

Gifts.

(d) Any annuity (*m*) or other interest purchased or provided by the deceased, either by himself alone or in concert or by arrangement with any other person, to the extent of the beneficial interest accruing or arising by survivorship or otherwise on the death of the deceased.

(2) Property passing on the death of the deceased when situate out of the united kingdom shall be included only, if, under the law in force before the passing of this act (*n*), legacy or succession duty is payable in

Foreign
property.

on the consanguinity scales fixed by the Stamp Act, 1815, and the Succession Duty Act, 1853, subject only to exemption under s. 15 (2) of this act, of pictures, &c., bequeathed for national purposes.]

(*h*) Either by gift, sale, exchange, will, or appointment; and see s. 22 (2).

These words include the ordinary fee simple and absolute interests.

(*i*) These words comprise the ordinary life interests in either real or personal property. As to dower and curtesy, see s. 22 (3).

(*j*) As where the deceased was a benefited clergyman.

(*k*) 52 & 53 Vict. c. 7. By s. 38 of the act of 1881, as amended by s. 11 of the act of 1889, *gifts* by the deceased not *bonâ fide* made *twelve months* before his death, or so made at any time that the benefit of them would accrue by survivorship (as where the deceased has transferred stock into the joint names of himself and the donee), and property settled by the deceased

with the reservation of a life interest to himself, were charged with “account duty,” payable by the donee or successor.

(*l*) The main effect of the omission appears to be that ante-nuptial marriage settlements, as well as post-nuptial marriage settlements, will create a liability on the part of widowers and widows to duty from which they were formerly exempt by the effect of s. 18 of the Succession Duty Act, 1853, subject to the exemptions allowed by ss. 5, 15, or 21 (5) of this act.

(*m*) See, however, ss. 3 (2) and 15 (1).

(*n*) Foreign or colonial personality is liable to legacy duty if the deceased was domiciled in the united kingdom at the time of his death (*Thomas v. Advocate-General*, 12 Cl. & F. 1); but not otherwise (*lb.*); and the law is generally the same with regard to succession duty (*Wallace v. Attorney-General*, L. R., 1 Ch. 1); the chief exceptions being where property in this country passes by

57 & 58 Vict.
c. 30, ss. 2, 3.

Trust
property.

Gifts before
death.

Exception for
transactions
for money
consideration.

respect thereof, or would be so payable but for the relationship of the person to whom it passes.

(3) Property passing on the death of the deceased shall not be deemed to include property held by the deceased as trustee (*o*) for another person, under a disposition not made by the deceased, or under a disposition made by the deceased more than twelve months (*p*) before his death where possession and enjoyment of the property was *bonâ fide* assumed by the beneficiary immediately upon the creation of the trust and thenceforward retained to the entire exclusion of the deceased or of any benefit to him by contract or otherwise (*q*).

3.—(1) Estate duty shall not be payable in respect of property passing on the death of the deceased by reason only of a *bonâ fide* purchase from the person under whose disposition the property passes, nor in respect of the falling into possession of the reversion on any lease for lives, nor in respect of the determination of any annuity for lives, where such purchase was made, or such lease or annuity granted, for full consideration in money or money's worth paid to the vendor or grantor for his own use or benefit, or in the case of a lease for the use or benefit of any person for whom the grantor was a trustee (*r*).

(2) Where any such purchase was made, or lease or annuity granted, for partial consideration in money or money's worth paid to the vendor or

the exercise by the owner of a general power of appointment (*Lovelaces' Trusts, In re*, 4 De G. & J. 340); or where the title is purely English (*Badart's Trusts, In re*, L. R., 10 Eq. 288); *Attorney-General v. Campbell*, L. R., 5 H. L. 524; *Cigala's Trusts, In re*, 7 Ch. D. 351). See heron Westlake, *Private Int. Law* (3rd ed.), ss. 111—119.

(*o*) Trust property will pass by virtue of the joint ownership of trustees to the surviving trustee, if any, and if not, to the representatives of the deceased trustee. As to new appointments, see *Trustee Act, 1893*, s. 10 et seq.

(*p*) As to dutiability of dispositions *within* the twelve months, see note (*k*), *supra*. Qu. as to the effect of this section on settlements by the deceased on the marriage of a child.

(*q*) Compare s. 8 of the *Succession Duty Act, 1853* (which may perhaps be applied to estate duty by s. 8 (1) of this act), whereby—

“Where any disposition of property shall purport to take effect presently, or under such circumstances as not to confer a succession, but by the effect or in consequence of any engagement, secret trust, or arrangement capable of

being enforced in a court of law or equity, the beneficial ownership of such property shall not *bonâ fide* pass according to such disposition, but shall in fact devolve to any person on death, or at some period ascertainable only by reference to death, then such last-mentioned person shall be deemed to acquire the property so passing as a succession derived from the person making the disposition as the predecessor; and where any court of competent jurisdiction shall declare any disposition to have been fraudulent and made for the purpose of evading the duty imposed by this act, it shall be lawful for such court to declare a succession to have been conferred on such person at such time and to such an extent as the court shall think just; and such last-mentioned person shall be deemed to have taken a succession accordingly derived from the person making such disposition as predecessor.”

(*r*) This section will exempt from estate duty the purchasers of reversionary interests when such interests fall into possession by the death of the tenant for life.

grantor for his own use or benefit, or in the case of a lease for the use or benefit of any person for whom the grantor was a trustee, the value of the consideration shall be allowed as a deduction from the value of the property for the purpose of estate duty.

57 & 58 Vict.
c. 30, ss. 3—5.

4. For determining the rate of estate duty to be paid on any property passing on the death of the deceased, all property so passing in respect of which estate duty is leviable shall be aggregated so as to form one estate (s), and the duty shall be levied at the proper graduated rate (t) on the principal value thereof:

Aggregation
of property
to form one
estate for
purpose of
estate duty.

Provided that any property so passing, in which the deceased never had an interest, or which under a disposition not made by the deceased passes immediately on the death of the deceased to some person other than the wife or husband or a lineal ancestor or lineal descendant of the deceased, shall not be aggregated with any other property but shall be an estate by itself, and the estate duty shall be levied at the proper graduated rate on the principal value thereof; but if any benefit under a disposition not made by the deceased is reserved or given to the wife or husband or a lineal ancestor or lineal descendant of the deceased, such benefit shall be aggregated with property of the deceased for the purpose of determining the rate of estate duty.

5.—(1) Where property in respect of which estate duty is leviable, is settled by the will (x) of the deceased, or having been settled by some other disposition passes under that disposition on the death of the deceased to some person not competent to dispose of (y) the property,—

Further
“settlement
estate duty”
on property
settled by will
or passing to
life tenant.

(a) a further estate duty (called “settlement estate duty”) on the principal value of the settled property shall be levied at the rate hereinafter specified (z), except where the only life interest in the property after the death of the deceased is that of a wife or husband (a) of the deceased; but

(b) during the continuance of the settlement the settlement estate duty shall not be payable more than once (b).

(2) If estate duty has already been paid in respect of any settled property since the date of the settlement, the estate duty shall not, nor shall any of the duties mentioned in the fifth paragraph of the first schedule to this act, be payable in respect thereof, until the death of a person who was at the time of his death or had been at any time

Times for
payment of
“settlement
estate duty.”

(s) For exceptions as to small estates, see s. 16. The probate duty (as to which see s. 1, note (g), ante) was levied on personal estate only; real property was first made subject to a death duty by the Succession Duty Act, 1853.

(t) For scale of graduated rates, see s. 17.

(x) As to dower and curtesy, see ss. 22 (3).

(y) See s. 22 (2).

(z) See s. 17, whereby the rate is

1 per cent.

(a) See s. 22 (3). Neither wife nor husband pays either legacy or succession duty on taking property by the death of the other (see Stamp Act, 1815, schedule, Part III. “Exemptions,” Succession Duty Act, 1853, s. 18).

(b) As to person accountable, see ss. 6 (2), 8 (4): as to persons ultimately liable, see ss. 9 (6), 14: as to exemptions, see s. 21 (4).

57 & 58 Vict.
c. 30, ss. 5, 6.

during the continuance of the settlement competent to dispose of such property (*bb*).

(3) In the case of settled property, where the interest of any person under the settlement fails or determines by reason of his death before it becomes an interest in possession, and subsequent limitations under the settlement continue to subsist, the property shall not be deemed to pass on his death (*c*).

Deduction of
settlement
stamp duty.

(4) Any person paying the settlement estate duty payable under this section upon property comprised in a settlement, may deduct the amount of the ad valorem stamp duty (if any) charged on the settlement in respect of that property (*d*).

Settlement
by act of
parliament.

(5) Where any lands or chattels are so settled, whether by act of parliament (*e*) or royal grant, that no one of the persons successively in possession thereof is capable of alienating the same, whether his interest is in law a tenancy for life or a tenancy in tail, the provisions of this act with respect to settled property shall not apply, and the property passing on the death of any person in possession of the lands and chattels shall be the interest of his successor in the lands and chattels, and such interest shall be valued, for the purpose of estate duty, in like manner as for the purpose of succession duty.

Collection and Recovery of Duty and Value of Property.

Collection and
recovery of
estate duty.

6.—(1) Estate duty shall be a stamp duty, collected and recovered as hereinafter mentioned.

(2) The executor (*f*) of the deceased shall pay the estate duty in respect of all personal property (wheresoever situate) of which the deceased was competent to dispose (*g*) at his death, on delivering the inland revenue affidavit (*h*), and may (*i*) pay in like manner the estate duty in respect of any other property passing on such death, which by virtue of any testamentary disposition of the deceased is under the control of the executor, or, in the case of property not under his control, if the persons accountable for the duty in respect thereof request him to make such payment.

Provision
for unknown
values.

(3) Where the executor does not know the amount or value of any property which has passed on the death, he may state in the inland

(*bb*) This sub-section seems to apply to estate duty under s. 1, and protects settlements from a second duty until the settled property comes to a person competent to dispose within s. 22 (2), post.

(*c*) Compare s. 14 of the Succession Duty Act, 1853.

(*d*) See Stamp Act, 1891 (54 & 55 Vict. c. 39), ss. 104—106, and schedule, head "*Settlement*," by which a duty of five shillings per one hundred pounds is imposed on certain settlements, whether voluntary or upon any good or valuable consideration " (such as marriage) other than a *bonâ fide* pecuniary con-

sideration."

(*e*) E.g., the acts affecting the Blenheim estate of the Duke of Marlborough and the Strathsfield-saye estate of the Duke of Wellington. See Settled Land Act, 1882, s. 58.

(*f*) For extended definition, see s. 22 (1) (*d*).

(*g*) See s. 22 (2), post.

(*h*) See s. 22 (1) (*n*), and sched. ii.

(*i*) This new power is permissive. The request need not be in writing, though an executor could not prudently act on an unwritten request. As to disclosure of *all* the property, whether the executor is accountable for the duty or not, see s. 8 (3).

revenue affidavit that such property exists but he does not know the amount or value thereof (*k*), and that he undertakes, as soon as the amount and value are ascertained, to bring in an account thereof, and to pay both the duty for which he is or may be liable, and any further duty payable by reason thereof (*kk*) for which he is or may be liable in respect of the other property mentioned in the affidavit.

57 & 58 Vict.
c. 30, ss. 6, 7.

(4) Estate duty, so far as not paid by the executor, shall be collected upon an account setting forth the particulars of the property, and delivered to the commissioners within six months (*l*) after the death by the person accountable for the duty; or within such further time as the commissioners may allow.

Collection from
others than
executor.

(5) Every estate shall include all income accrued upon the property included therein down to and outstanding at the date of the death of the deceased.

(6) Interest at the rate of three per cent. per annum on the estate duty shall be paid from the date of the death up to the date of the delivery of the inland revenue affidavit or account, or the expiration of six months after the death, whichever first happens, and shall form part of the estate duty.

Interest.

(7) The duty which is to be collected upon an inland revenue affidavit or account shall be due on the delivery thereof, or on the expiration of six months from the death, whichever first happens.

(8) Provided that the duty due upon an account of real property may, at the option of the person delivering the account (*m*), be paid by eight equal yearly instalments, or sixteen half-yearly instalments (*n*), with interest at the rate of three per cent. per annum from the date at which the first instalment is due, less income tax, and the first instalment shall be due at the expiration of twelve months from the death, and the interest on the unpaid portion of the duty shall be added to each instalment, and paid accordingly; but the duty for the time being unpaid, with such interest to the date of payment, may be paid at any time, and in case the property is sold, shall be paid on completion of the sale, and if not so paid shall be duty in arrear (*nn*).

Payment of
duty on realty
by instal-
ments.

7.—(1) In determining the value of an estate for the purpose of estate duty allowance shall be made for reasonable funeral expenses (*o*) and for debts and incumbrances (*p*); but an allowance shall not be made—

Value of
property—
allowance for
debts.

(*k*) As to statement, subsequent to first statement of property coming to the knowledge of the executor after the first statement, and payment of duty on such after-discovered property, see s. 8 (7).

(*kk*) I.e., any higher duty consequent on aggregation of the declared and the unknown values: see s. 8 (7), post.

(*l*) See Stamp Act, 1815 (55 Geo. 3, c. 184), s. 37, by which a penalty is imposed on executor, &c., not proving will, &c., within six months after death of testator, &c.

(*m*) See s. 8 (4).

(*n*) Compare s. 21 of the Succession Duty Act, 1853, by which only

eight equal *half-yearly* instalments are allowed; and s. 22 of the Customs and Inland Revenue Act, 1888.

(*nn*) And will bear interest at 4 per cent. See s. 8 (10), post.

(*o*) See s. 28 of the Customs and Inland Revenue Act, 1881 (44 & 45 Vict. c. 12), which allowed "reasonable funeral expenses according to law" to be deducted from the value of an estate for probate purposes. As to what funeral expenses have been held reasonable, see Williams on Executors (9th ed.), 836.

As to liability of executor, see *Sharp v. Lush*, 10 Ch. D. 468, per Jessel, M.R.

(*p*) See s. 22 (1) (*k*)

57 & 58 Vict.
c. 30, s. 7.

- (a) for debts incurred by the deceased, or incumbrances created by a disposition made by the deceased, unless such debts or incumbrances were incurred or created *bonâ fide* for full consideration in money or money's worth wholly for the deceased's own use and benefit and take effect out of his interest, nor
- (b) for any debt in respect whereof there is a right to reimbursement from any other estate or person, unless such reimbursement cannot be obtained; nor
- (c) more than once for the same debt or incumbrance charged upon different portions of the estate;

and any debt or incumbrance for which an allowance is made shall be deducted from the value of the land or other subjects of property liable thereto.

Debts to
persons resi-
dent abroad.

(2) (*g*) An allowance shall not be made in the first instance for debts due from the deceased to persons resident out of the united kingdom (unless contracted to be paid in the united kingdom, or charged on property situate within the united kingdom), except out of the value of any personal property of the deceased situate out of the united kingdom in respect of which estate duty is paid; and there shall be no repayment of estate duty in respect of any such debts, except to the extent to which it is shown to the satisfaction of the commissioners, that the personal property of the deceased situate in the foreign country or British possession in which the person to whom such debts are due resides, is insufficient for their payment.

(3) Where the commissioners are satisfied that any additional expense in administering or in realising property has been incurred by reason of the property being situate out of the united kingdom, they may make an allowance from the value of the property on account of such expense not exceeding in any case five per cent. on the value of the property.

Foreign
property.

(4) (*r*) Where any property (*s*), passing on the death of the deceased is situate in a foreign country and the commissioners are satisfied that by reason of such death any duty is payable in that foreign country in respect of that property, they shall make an allowance of the amount of that duty from the value of the property.

(5) The principal value of any property shall be estimated to be the price which, in the opinion (*t*) of the commissioners, such property would fetch if sold in the open market at the time of the death of the deceased.

Provided that, in the case of any agricultural property (*u*), where no part of the principal value is due to the expectation of an increased income from such property, the principal value shall not exceed twenty-five times the annual value as assessed under schedule A of the Income Tax Acts, after making such deductions as have not been allowed in that assessment and are allowed under the Succession Duty Act, 1853 (*x*), and making a

(*q*) See also s. 2 (2). This subsection abrogates *R. v. Commissioners*, 13 Jur. 624.

(*r*) This clause applies only to property passing under s. 2(2), ante. As to property in British possessions, see s. 2 (2), sub-s. 2, ante, and s. 20, post.

(*s*) Real or personal (see s. 22, sub-s. 1 (*f*)), so that money in a bank abroad would be included.

(*t*) As to mode of forming opinion, see sub-s. 8. As to appeals, see s. 10, post.

(*u*) For definition of "agricultural property," see s. 22 (1) (*g*).

(*x*) 16 & 17 Vict. c. 51. See s. 22, by which an allowance is made of "all necessary outgoings" in respect of agricultural property and houses; and s. 26 as to mines and manors.

deduction for expenses of management not exceeding five per cent. of the annual value so assessed.

57 & 58 Vict.
c. 30, ss. 7, 8.

(6) Where an estate includes an interest in expectancy (*y*), estate duty in respect of that interest shall be paid, at the option of the person accountable for the duty, either with the duty in respect of the rest of the estate or when the interest falls into possession, and if the duty is not paid with the estate duty in respect of the rest of the estate, then—

Interest in
expectancy.

(a) for the purpose of determining the rate of estate duty in respect of the rest of the estate the value of the interest shall be its value (*z*) at the date of the death of the deceased; and

(b) the rate of estate duty in respect of the interest when it falls into possession shall be calculated according to its value when it falls into possession, together with the value of the rest of the estate as previously ascertained (*zz*).

(7) The value of the benefit accruing or arising from the cesser of an interest ceasing on the death of the deceased shall—

(a) if the interest extended to the whole income of the property, be the principal value of that property; and

(b) if the interest extended to less than the whole income of the property, be the principal value of an addition to the property equal to the income to which the interest extended (*a*).

(8) Subject to the provisions of this act, the value of any property for the purpose of estate duty shall be ascertained by the commissioners in such manner and by such means as they think fit (*aa*), and, if they authorise a person to inspect any property and report to them the value thereof for the purposes of this act, the person having the custody or possession of that property shall permit the person so authorised to inspect it at such reasonable times as the commissioners consider necessary (*b*).

Ascertainment
of value by
commissioners.

Inspection of
property.

(9) Where the commissioners require a valuation to be made by a person named by them, the reasonable costs of such valuation shall be defrayed by the commissioners.

(10) Property passing on any death shall not be aggregated more than once (*bb*), nor shall estate duty in respect thereof be more than once levied on the same death.

8.—(1) The existing law (*c*) and practice (*cc*) relating to any of the duties now leviable on or with reference to death shall, subject to the provisions of this act and so far as the same are applicable, apply for the purposes of

Incorporation
as to estate
duty of exist-
ing law as to
any death
duty.

(*y*) For definition of “expectancy,” see s. 22 (1) (*j*). As to commutating duty on such interest, see s. 12, post.

(*z*) As an expectancy; but see sub-s. 5.

(*zz*) I.e., on the aggregate value of the two parts of the estate.

(*a*) As to appointment of valuers by the county councils, see s. 10 (6); but the whole of this sub-section seems to invest the commissioners with a practically uncontrolled discretion.

(*aa*) See sub-s. 5, 6, 7, ante.

(*b*) This sub-section appears to be

framed to prevent executors from making extravagant bargains with valuers named by the commissioners.

(*bb*) I.e., on the same death.

(*c*) See Legacy Duty Act, 1796 (36 Geo. 3, c. 52); Stamp Act, 1815 (55 Geo. 3, c. 184); Succession Duty Act, 1853 (16 & 17 Vict. c. 51), and particularly s. 8 thereof, set out in note (*g*) to s. 3 (3), ante; the Customs and Inland Revenue Act, 1881; and refer to note (*g*) to s. 1 of this act.

(*cc*) Apparently the departmental and exchequer practice.

57 & 58 Vict.
c. 30, s. 8.

Limitation of
claim against
purchasers.

Duty of
executor to
specify to
inland revenue
all property
on which
estate duty
payable.

Account-
ability, where
executor
accountable,
of every per-
son to whom
property
passes bene-
ficially, and
also of trustee,
&c.

the collection, recovery, and repayment of estate duty, and for the exemption of the property of common seamen, marines or soldiers who are slain or die in the service of her majesty (*d*), and for the purpose of payment of sums under one hundred pounds without requiring representation (*e*), as if such law and practice were in terms made applicable to this part of this act.

(2) Sections twelve to fourteen of the Customs and Inland Revenue Act, 1889 (*f*), and section forty-seven of the Local Registration of Title (Ireland) Act, 1891, shall apply as if estate duty were therein mentioned as well as succession duty, and as if an account were not settled within the meaning of any of the above sections until the time for the payment of the duty on such account has arrived.

(3) The executor (*g*) of the deceased shall, to the best of his knowledge and belief, specify in appropriate accounts (*gg*) annexed to the inland revenue affidavit all the property (*h*) in respect of which estate duty is payable upon the death of the deceased, and shall be accountable for the estate duty in respect of all personal property wheresoever situate (*hh*) of which the deceased was competent to dispose at his death, but shall not be liable for any duty in excess of the assets which he has received as executor, or might but for his own neglect or default have received.

(4) Where property passes on the death of the deceased, and his executor is not accountable for the estate duty in respect of such property, every person to whom any property so passes for any beneficial interest in possession (*i*), and also, to the extent of the property actually received or disposed of by him, every trustee, guardian, committee, or other person in whom any interest in the property so passing or the management thereof is at any time vested, and every person in whom the same is vested in possession by alienation or other derivative title (*j*) shall be accountable for the estate duty on the property, and shall, within the

(*d*) See Stamp Act, 1815, schedule, part iii. "*Exemptions from Stamp Duties*."

(*e*) Defined s. 22 (1) (*c*). The chief acts referred to are 37 & 38 Vict. c. 42, ss. 29, 30; 38 & 39 Vict. c. 60, s. 15; 46 & 47 Vict. c. 47, s. 3; 50 & 51 Vict. c. 40, s. 3; 56 & 57 Vict. c. 39, ss. 26—28 (building, friendly, industrial, and provident societies, and savings banks); and 28 & 29 Vict. c. 111, ss. 6, 15 (seamen); 56 & 57 Vict. c. 5, s. 16 (soldiers); 50 & 51 Vict. c. 67, s. 8 (civil servants). As to small intestacies, see 36 & 37 Vict. c. 52; 38 & 39 Vict. c. 27.

(*f*) 52 & 53 Vict. c. 7. By s. 12, purchasers and mortgagees are exempted, from liability to succession duty after six years from notice to the commissioners that a successor has become entitled, or from first payment of an instalment, or in the absence of such notice or payment, after 12 years from the event which gave rise to a claim to the duty.

By s. 14, liability for legacy or succession duty ceases after six years from the settlement of a full and true account; "and no trustee, executor, or administrator shall, after the expiration of such six years, be liable to such duty if it is proved to the satisfaction of the commissioners that the account rendered was correct to the best of his knowledge, information, and belief."

(*g*) Defined s. 22 (1) (*d*), post. The executor hitherto has had, as executor, no interest in the real property of the testator.

(*gg*) See sub-s. 14, post. Forms have already been prepared.

(*h*) See s. 6 (2) (3), ante.

(*hh*) As to personality in colonies or foreign countries, see ss. 2 (2), 7 (2), (3), (4), and 20.

(*i*) Compare 16 & 17 Vict. c. 51, s. 43.

(*j*) Compare 16 & 17 Vict. c. 51, s. 44.

time required by this act or such later time as the commissioners allow (*k*), deliver to the commissioners and verify an account, to the best of his knowledge and belief, of the property: provided that nothing in this section contained shall render a person accountable for duty who acts merely as agent or bailiff for another person in the management of property.

57 & 58 Vict.
c. 30, s. 8.

(5) Every person accountable for estate duty, and every person whom the commissioners believe to have taken possession of or administered any part of the estate in respect of which duty is leviable on the death of the deceased, or of the income of any part of such estate, shall, to the best of his knowledge and belief, if required by the commissioners, deliver to them and verify a statement of such particulars (*kk*) together with such evidence as they require relating to any property which they have reason to believe to form part of an estate in respect of which estate duty is leviable on the death of the deceased (*l*).

Delivery to
commissioners
of particulars
by persons
accountable.

(6) A person who wilfully fails to comply with any of the foregoing provisions of this section (*ll*) shall be liable to pay one hundred pounds, or a sum equal to double the amount of the estate duty, if any, remaining unpaid for which he is accountable, according as the commissioners elect: provided that the commissioners, or in any proceeding for the recovery of such penalty (*m*) the court, shall have power to reduce any such penalty.

Penalties for
not delivering
account, &c.

(7) Estate duty shall, in the first instance, be calculated at the appropriate rate (*n*) according to the value of the estate as set forth in the inland revenue affidavit (*o*) or account delivered, but if afterwards it appears that for any reason too little duty has been paid, the additional duty shall, unless a certificate of discharge has been delivered under this act (*p*), be payable, and be treated as duty in arrear (*pp*).

Calculation
of duty.

(8) The commissioners on application from a person accountable for the duty on any property forming part of an estate shall, where they consider that it can conveniently be done, certify the amount of the valuation accepted by them for any class or description of property forming part of such estate.

Certificate of
commissioners.

(9) Where the commissioners are satisfied that the estate duty leviable in respect of any property cannot without excessive sacrifice be raised at once, they may allow payment to be postponed for such period, to such extent, and on payment of such interest not exceeding four per cent. or any higher interest yielded by the property, and on such terms, as the commissioners think fit (*q*).

Postponement
of payment.

(10) Interest on arrears of estate duty shall be paid as if they were arrears of legacy duty (*r*).

Interest on
arrears.

(11) If after the expiration of twenty years from a death upon which estate duty became leviable any such duty remains unpaid, the commissioners may, if they think fit, on the application of any person account-

Remission
after 20
years.

(*k*) See s. 6 (4).

(*n*) See the scale in s. 17.

(*kk*) As to forms, see sub-s. 14, post.

(*o*) Defined s. 22 (1) (ii).

(*l*) No provision is made for the costs occasioned by exercise of this wide power of inquiry.

(*p*) See ss. 9, 11, 12, 13, post.

(*pp*) I.e., subject to interest under sub-s. 10.

(*ll*) I.e., sub-s. 3, 4, 5, ante, and 14, post; and the enactments applied by sub-s. 1. Compare 44 & 45 Vict. c. 12, s. 40.

(*q*) As to payment of estate duty on *real estate* by instalments, see s. 6 (8).

(*m*) Recoverable under Crown Uits Act, 1865 (28 & 29 Vict. c. 104).

(*r*) I.e., at 4 per cent.: see 31 & 32 Vict. c. 124, s. 9. As to small estates, see s. 16 (5), post.

57 & 58 Vict.
c. 30, ss. 8, .

Repayment
of excess.

Receiver.

Forms of
affidavits, &c.

No charge for
certificate.

Saving for
bonâ fide
purchaser.

Charge of
estate duty
on property.

Certificate
of payment
of duty.

able or liable for such duty or interested in the property, remit the payment of such duty or any part thereof or any interest thereon.

(12) Where it is proved to the satisfaction of the commissioners that too much estate duty has been paid, the excess shall be repaid by them, and in cases where the over-payment was due to over-valuation by the commissioners, with interest at three per cent. per annum (s).

(13) Where any proceeding for the recovery of estate duty in respect of any property is instituted (t) the high court shall have jurisdiction to appoint a receiver of the property and the rents and profits thereof, and to order a sale of the property.

(14) All affidavits, accounts, certificates, statements, and forms used for the purpose of this part of this act shall be in such form, and contain such particulars, as may be prescribed (u), and if so required by the commissioners shall be in duplicate, and accounts and statements shall be delivered and verified on oath and by production of books and documents in the manner prescribed, and any person who wilfully fails to comply with the provisions of this enactment shall be liable to the penalty above in this section mentioned.

(15) No charge shall be made for any certificate given by the commissioners under this act.

(16) The estate duty may be collected by means of stamps or such other means as the commissioners prescribe (v).

(17) The form of certificate required to be given by the proper officer of the court under section thirty of the Customs and Inland Revenue Act, 1881 (x), may be varied by a rule of court in such manner as may appear necessary for carrying into effect this act.

(18) Nothing in this section shall render liable to or accountable for duty a bonâ fide purchaser for valuable consideration without notice (y).

9.—(1) A rateable part of the estate duty on an estate, in proportion to the value of any property which does not pass to the executor as such (z), shall be a first charge (zz) on the property in respect of which duty is leviable; provided that the property shall not be so chargeable as against a bonâ fide purchaser thereof for valuable consideration without notice (a).

(2) On an application submitting in the prescribed (b) form the

(s) An appeal lies against their decision: see s. 10 (1), post.

(t) As to mode of institution of proceedings, see part iii. of the Crown Suits Act, 1865 (28 & 29 Vict. c. 104).

(u) By the inland revenue commissioners: see s. 22 (1) (o). Forms have been issued. (See pp. xix., xx., ante.) For penalty, see sub-s. 6, ante.

(v) See s. 6 (1), s. 22 (1) (m).

(x) 44 & 45 Vict. c. 12. By s. 30, no *probate*, &c., may be granted by the high court without a certificate showing that the affidavit for the inland revenue has been delivered, and stamped if liable to duty, and also "stating the amount of the

gross value of the estate and effects as shown by the account."

(y) Compare ss. 9 (1), 11 (4), post.

(z) In England and Ireland all personal property (including leaseholds for however long a term), and no other property, passes to the executor, as such. In Scotland leasehold is deemed to be real estate, and vests in the heir of the lessee at his death (*Bain v. Brand*, L. R., 1 App. Cas. 762).

(zz) As to property situate in a colony, see s. 20, post.

(a) Cf. s. 8 (18), ante, and s. 11 (4), infra.

(b) By the inland revenue commissioners: see s. 22 (1) (o).

description of the lands or other subjects of property (whether hereditaments, stocks, funds, shares, or securities), and of the debts and incumbrances allowed by the commissioners in assessing the value of the property for the purposes of estate duty, the commissioners shall grant a certificate of the estate duty paid in respect of the property, and specify the debts and incumbrances (*c*) so allowed, as well as the lands or other subjects of property.

57 & 58 Vict.
c. 30, ss. 9, 10.

(3) Subject to any repayment of estate duty arising from want of title to the land or other subjects of property, or from the existence of any debt or incumbrance thereon for which under this act (*d*) an allowance ought to have been but has not been made, or from any other cause, the certificate of the commissioners shall be conclusive evidence that the amount of duty named therein is a first charge on the lands or other subjects of property after the debts and incumbrances allowed as aforesaid: provided that any such repayment of duty by the commissioners shall be made to the person producing to them the said certificate (*dd*).

(4) If the rateable part of the estate duty in respect of any property is paid by the executor (*e*), it shall where occasion requires (*ee*) be repaid to him by the trustees or owners of the property, but if the duty is in respect of real property, it may, unless otherwise agreed upon, be repaid by the same instalments and with the same interest as are in this act mentioned (*f*).

Reimbursement of executor.

(5) A person authorised (*g*) or required (*gg*) to pay the estate duty in respect of any property shall, for the purpose of paying the duty, or raising the amount of the duty when already paid, have power, whether the property is or is not vested in him, to raise the amount of such duty and any interest and expenses properly paid or incurred by him in respect thereof, by the sale or mortgage of or a terminable charge on that property or any part thereof.

Raising estate duty by sale, mortgage, or terminable charge.

(6) A person having a limited interest (*h*) in any property, who pays the estate duty in respect of that property, shall be entitled to the like charge, as if the estate duty in respect of that property had been raised by means of a mortgage to him.

Payment by limited owner.

(7) Any money arising from the sale of property comprised in a settlement, or held upon trust to lay out upon the trusts of a settlement, and capital money arising under the Settled Land Act, 1882 (*i*), may be expended in paying any estate duty in respect of property comprised in the settlement and held upon the same trusts.

Payment of duty out of "capital money."

10.—(1) Any person aggrieved by the decision of the commissioners (*k*) with respect to the repayment of any excess of duty paid, or by the amount of duty claimed by the commissioners, whether on the ground of the value of any property or the rate charged or otherwise, may, on payment of, or giving security as hereinafter mentioned for, the duty

Appeal from commissioners to high court on payment of duty claimed.

(*c*) Defined s. 22 (1) (*k*).

(*d*) See s. 7 (1).

(*dd*) This does not affect a right of appeal under s. 10, or bona fide purchasers: see s. 11 (4).

(*e*) I.e., under s. 6 (2).

(*ee*) As to which, see ss. 8 (4), 14.

(*f*) See s. 6 (6) and (8).

(*g*) See s. 6 (2).

(*gg*) See ss. 6 (4), 8, (4), ante.

(*h*) See s. 8 (4), ante: the section

applies to both kinds of estate duty. As to "limited interests," see Settled Land Act, 1882, s. 58.

(*i*) 45 & 46 Vict. c. 38, by which tenants for life may sell settled land, &c.

(*k*) This does not apply in terms where liability to any duty is denied. But see 16 & 17 Vict. c. 51, s. 20, incorporated by s. 8 (1), ante.

57 & 58 Vict.
c. 30, ss. 10, 11.

claimed by the commissioners or such portion of it as is then payable by him, appeal to the high court within the time and in the manner and on the conditions directed by rules of court (*l*), and the amount of duty shall be determined by the high court, and if the duty as determined is less than that paid to the commissioners the excess shall be repaid.

Further
appeal by
leave.

(2) No appeal shall be allowed from any order, direction, determination, or decision of the high court in any appeal under this section except with the leave of the high court or court of appeal (*m*).

Costs of
appeal.

(3) The costs of the appeal shall be in the discretion of the court, and the court, where it appears to the court just, may order the commissioners to pay on any excess of duty repaid by them interest at the rate of three per cent. per annum for such period as appears to the court just (*mm*).

Appeal,
without
payment of
duty claimed.

(4) Provided that the high court, if satisfied that it would impose hardship to require the appellant, as a condition of an appeal, to pay the whole or, as the case may be, any part of the duty claimed by the commissioners or of such portion of it as is then payable by him, may allow an appeal to be brought on payment of no duty, or of such part only of the duty as to the court seems reasonable, and on security to the satisfaction of the court being given for the duty, or so much of the duty as is not so paid, but in such case the court may order interest at the rate of three per cent. per annum to be paid on the unpaid duty so far as it becomes payable under the decision of the court.

Appeal to
county court.

(5) Where the value as alleged by the commissioners of the property in respect of which the dispute arises does not exceed ten thousand pounds, the appeal under this section may (*n*) be to the county court for the county or place in which the appellant resides or the property is situate, and this section shall for the purpose of the appeal apply as if such county court were the high court.

Appointment
of valuers
by county
councils.

(6) The county council of every county or county borough in Great Britain (*o*), shall within twelve months after the commencement of this act, and may thereafter from time to time, appoint a sufficient number of qualified persons to act as valuers for the purposes of this act in their respective counties, and shall fix a scale of charges for the remuneration of such persons, and the court may refer any question of disputed value under this section to the arbitration of any person so appointed for the county in which the appellant resides or the property is situate; and the costs of any such arbitration shall be part of the costs of the appeal (*oo*).

Discharge from and Apportionment of Duty.

Release of
persons paying
estate duty.

11.—(1) The commissioners on being satisfied that the full estate duty has been or will be paid in respect of an estate or any part

(*l*) No rules have as yet (August 24, 1894) been issued.

(*m*) Compare Judicature Act, 1894 (57 & 58 Vict. c. 16), s. 1 (5). It is submitted, that without leave there will be an appeal from the court of appeal under s. 3 of the Appellate Jurisdiction Act, 1876.

(*mm*) Compare s. 8 (2), ante.

(*n*) The appeal to the county court seems alternative and not ex-

clusive. The county court seems to have the same power of granting or refusing leave to appeal to the court of appeal as sub-s. 2 gives to the high court.

(*o*) See Local Government Act, 1888 (51 & 52 Vict. c. 41).

(*oo*) Qu., whether the valuation is absolutely conclusive on the court, or is subject to the Arbitration Act, 1889.

thereof shall, if required by the person accounting for the duty, give a certificate to that effect, which shall discharge from any further claim for estate duty the property shown by the certificate to form the estate or part thereof as the case may be.

57 & 58 Vict.
c. 30, ss. 11—
13.

(2) Where a person accountable for the estate duty (*p*) in respect of any property passing on a death applies after the lapse of two years from such death to the commissioners, and delivers to them and verifies a full statement to the best of his knowledge and belief of all property (*q*) passing on such death and the several persons entitled thereto, the commissioners may determine the rate of the estate duty in respect of the property for which the applicant is accountable, and on payment of the duty at that rate, that property and the applicant so far as regards that property shall be discharged from any further claim for estate duty, and the commissioners shall give a certificate of such discharge.

(3) A certificate of the commissioners under this section shall not discharge any person or property from estate duty in case of fraud or failure to disclose material facts, and shall not affect the rate of duty payable in respect of any property afterwards shown to have passed on the death, and the duty in respect of such property shall be at such rate as would be payable if the value thereof were added to the value of the property in respect of which duty has been already accounted for ;

(4) Provided nevertheless that a certificate purporting to be a discharge of the whole estate duty payable in respect of any property included in the certificate shall exonerate a bonâ fide purchaser for valuable consideration without notice (*r*) from the duty notwithstanding any such fraud or failure.

12. The commissioners in their discretion (*rr*), upon application by a person entitled to an interest in expectancy (*s*), may commute the estate duty which would or might (*ss*), but for the commutation, become payable in respect of such interest for a certain sum to be presently paid, and for determining that sum shall cause a present value to be set upon such duty, regard being had to the contingencies affecting the liability to and rate and amount of such duty, and interest being reckoned at three per cent. ; and on the receipt of such sum they shall give a certificate of discharge accordingly.

Commutation
of duty on
interest in
expectancy.

13.—(1) (*t*). Where, by reason of the number of deaths on which property has passed or of the complicated nature of the interests of different persons in property which has passed on death, or from any other cause, it is difficult to ascertain exactly the amount of death duties or any of them payable in respect of any property or any interest therein, or so to ascertain the same without undue expense in proportion to the value of the property or interest, the commissioners on the application of any person accountable for any duty thereon, and upon his giving to them all the information in his power respecting the amount of the property and the several interests therein, and other circumstances of the case, may by way of composition for all or any of the death duties payable in respect of

Powers to
accept com-
position for
death duties.

(*p*) See s. 6 (2) and s. 8 (4).

(*q*) As defined in s. 22 (1) (*f*).

(*r*) Cf. s. 8 (18) and s. 9 (1).

(*rr*) This word seems to exclude an appeal under s. 10.

(*s*) See s. 22 (1) (*j*), and compare 16 & 17 Vict. c. 51, s. 41, and 43 Vict. c. 14, s. 11.

(*ss*) I.e., whether the interest is

vested or contingent.

(*t*) This section is not confined to deaths after 1st Aug., 1894 ; and extends to all death duties powers hitherto existing as to legacy and succession duties under 36 Geo. 3, c. 52, s. 33, 16 & 17 Vict. c. 51, s. 39, and 44 & 45 Vict. c. 12, s. 43.

57 & 58 Vict.
c. 30, ss. 13—
15.

the property, or interest, and the various interests therein, or any of them, assess such sum on the value of the property, or interest, as having regard to the circumstances appears proper, and may accept payment of the sum so assessed, in full discharge of all claims for death duties in respect of such property or interest, and shall give a certificate of discharge accordingly;

(2) Provided that the certificate shall not discharge any person from any duty in case of fraud or failure to disclose material facts (*u*).

(3) In this section the expression “death duties” means the estate duty under this act, the duties mentioned in the first schedule to this act and the legacy and succession duties, and the duty payable on any representation or inventory under any act in force before the Customs and Inland Revenue Act, 1881.

44 Vict. c. 12.

Apportionment
of estate duty.

14.—(1) In the case of property which does not pass to the executor as such (*v*), an amount equal to the proper rateable part of the estate duty may be recovered by the person, who being authorised or required to pay the estate duty in respect of any property has paid such duty, from the person entitled to any sum charged on such property, (whether as capital or as an annuity or otherwise,) under a disposition not containing any express provision to the contrary.

(2) Any dispute as to the proportion of estate duty to be borne by any property or person, may be determined upon application by any person interested in manner directed by rules of court (*w*), either by the high court, or, where the amount in dispute is less than fifty pounds, by a county court (*x*) for the county or place in which the person recovering the same resides, or the property in respect of which the duty is paid is situate.

(3) Any person from whom a rateable part of estate duty can be recovered under this section shall be bound by the accounts and valuations as settled between the person entitled to recover the same and the commissioners.

Exemptions
from estate
duty.—25*l*.
annuity.

15.—(1) Estate duty shall not be payable in respect of a single annuity not exceeding twenty-five pounds purchased or provided (*xx*) by the deceased, either by himself alone or in concert or arrangement with any other person, for the life of himself and of some other person and the survivor of them, or to arise on his own death in favour of some other person; and if in any case there is more than one such annuity, the annuity first granted shall be alone entitled to the exemption under this section.

Pictures, &c.
bequeathed to
nation, uni-
versity, or
municipality.

(2) It shall be lawful for the treasury to remit the estate duty, or any other duty leviable on or with reference to death (*y*), in respect of any such pictures, prints, books, manuscripts, works of art or scientific collections, as appear to the treasury to be of national, scientific, or historic interest, and to be given or bequeathed for national purposes, or to any university, or to any county council or municipal corporation, and no property the duty in respect of which is so remitted shall be aggregated with any other property for the purpose of fixing the rate of estate duty (*yy*).

(*u*) Qu. as to bona fide purchasers, compare s. 11 (3), (4), ante, where the words “and property” are inserted.

(*v*) See also s. 9 (1) and note (*z*).

(*w*) No rules of court have as yet (August 24, 1894) been made.

(*x*) Qu. whether the county court jurisdiction is exclusive as to amounts under 50*l*.

(*xx*) I.e., created otherwise than by the will of the deceased: see s. 3 (1) (d), ante.

(*y*) See s. 13 (3), ante.

(*yy*) By 39 Geo. 3, c. 73, legacies of “books, prints, pictures, statues, gems, coins, medals, specimens of natural history, or other specific articles to any body corporate,

(3) Estate duty shall not be payable in respect of any pension or annuity payable by the government of British India to the widow or child of any deceased officer of such government, notwithstanding that the deceased contributed during his lifetime to any fund out of which such pension or annuity is paid.

57 & 58 Vict.
c. 30, ss. 15,
16.

Indian
pensions.

(4) Estate duty shall not be payable in respect of any advowson or church patronage which would have been free from succession duty under section twenty-four of the Succession Duty Act, 1853 (z).

Church
patronage.

Small Estates.

16.—(1) The provisions of sections thirty-three, thirty-five, and thirty-six of the Customs and Inland Revenue Act, 1881 (a) (relating to the obtaining of representation to the deceased where the *gross (aa)* value of his *personal* estate does not exceed three hundred pounds), shall apply with the necessary modifications to the case where the gross value of the property *real and personal* in respect of which estate duty is payable on the death of the deceased, exclusive of property settled otherwise than by the will of the deceased, does not exceed five hundred pounds, and where the gross value does not exceed three hundred pounds the fixed duty shall be thirty shillings, and where the gross value exceeds three hundred pounds and does not exceed five hundred pounds the fixed duty shall be fifty shillings.

Provision
for estates
not exceeding
1,000*l*.

(2) All such property may be comprised in the notice under the said section thirty-three.

(3) Where the *net* value of the property, real and personal, in respect of which estate duty is payable on the death of the deceased, exclusive of property settled otherwise than by the will of the deceased, does not exceed one thousand pounds, such property, for the purpose of estate duty, shall not be aggregated with any other property, but shall form an estate by itself; and where the fixed duty or estate duty has been paid upon the principal value of that estate, the settlement estate duty (b), and the legacy and succession duties shall not be payable under the will or intestacy of the deceased in respect of that estate.

whether aggregate or sole, or any endowed school," to be kept and not sold, are exempted from legacy duty—which would otherwise be leviable at a ten per cent. rate.

(z) 16 & 17 Vict. c. 51. By s. 24 of that act no succession duty is payable on any advowson unless the advowson, or some right of presentation, be sold, in which case the successor is chargeable with duty on the purchase-money at the time of sale.

(a) 44 & 45 Vict. c. 12. By s. 33, where the gross value of the *personal* estate of the deceased does not exceed 300*l*. the person intending to apply for probate or letters

of administration *may* deliver to the proper officer a notice of the particulars of the estate, and deposit 15*s*. for fees and expenses, and if the estate exceed 100*l*. the further sum of 30*s*. for stamp duty. By s. 35, provision is made for a subsequent discovery that the value of the estate exceeded 300*l*., and by s. 36 the 30*s*. is to be taken in full satisfaction of any claim to legacy or succession duty in respect of the estate.

(aa) I.e., without deductions under s. 7 (1), ante.

(b) As to "settlement estate duty" on property "settled by will," see ss. 5 (1), 22 (3).

57 & 58 Vict.
c. 30, ss. 16—
18.

(4) Where representation granted under this section if granted in Eng-land extends to property in Ireland, and if granted in Ireland extends to property in England, the principal registrar of the probate division of the high court in England or Ireland, as the case may be, shall affix the seal of the court thereto on the same being sent to him for that purpose, with the fee of two shillings and sixpence.

(5) Where the fixed duty of thirty or fifty shillings is paid within twelve months after the death of the deceased, interest on such duty shall not be payable (c).

Rates of Estate Duty.

Scale of rates
of estate duty.

17.—The rates of estate duty shall be according to the following scale (cc) :—

Where the principal value of the Estate						Estate duty shall be payable at the rate per cent. of
	£		£			
Exceeds	100	and does not exceed	500			One pound.
"	500	"	"	1,000		Two pounds.
"	1,000	"	"	10,000		Three pounds.
"	10,000	"	"	25,000		Four pounds.
"	25,000	"	"	50,000		Four pounds ten shillings.
"	50,000	"	"	75,000		Five pounds.
"	75,000	"	"	100,000		Five pounds ten shillings.
"	100,000	"	"	150,000		Six pounds.
"	150,000	"	"	250,000		Six pounds ten shillings.
"	250,000	"	"	500,000		Seven pounds.
"	500,000	"	"	1,000,000		Seven pounds ten shillings.
"	1,000,000		Eight pounds.

The rate of the settlement estate duty where the property is settled shall be one per cent.

Provided that for any fractional part of ten pounds over ten pounds or any multiple thereof, the estate duty and the settlement estate duty shall be payable at the rate per cent. for the full sum of ten pounds.

Succession Duty.

Value of real
successions for
succession
duty to be
the principal
value.

18.—(1) The value for the purpose of succession duty of a succession to real property arising on the death of a deceased person shall, where the successor is competent to dispose of the property (d), be the principal value of the property, after deducting the estate duty payable in respect thereof on the said death and the expenses if any properly incurred of raising and paying the same; and the duty shall be a charge on the property, and shall be payable by the same instalments (dd) as are authorised by this act

(c) Seess. 6 (6), 8 (10), as to interest.
(cc) This graduated scale is the main novelty of the act. The rate of probate or administration duty was a three per cent. rate, payable on personalty only, with an additional one per cent. both on realty and personalty exceeding in value 10,000£., charged as a temporary "estate duty" until

1896. These old rates are all superseded by the graduated scale imposed by s. 17; but the liability to legacy and succession duty on the consanguinity scales of the Legacy Duty Act, 1796, and the Succession Duty Act, 1853, continues.
(d) See s. 22 (2), post.
(dd) Which are specified in s. 6 (8).

for estate duty on real property, with interest at the rate of three per cent. per annum; and the first instalment shall be payable and the interest shall begin to run at the expiration of twelve months after the date on which the successor became entitled in possession to his succession or to the receipt of the income and profit thereof; and after the expiration of the said twelve months the provisions with respect to discount (*e*) shall not apply (*ee*).

(2) The principal value of real property for the purpose of succession duty shall be ascertained in the same manner as it would be ascertained under the provisions of this act for the purpose of estate duty (*f*); and in the case of any agricultural property (*g*) where no part of the principal value is due to the expectation of an increased income from such property, the annual value for the purpose of succession duty shall be arrived at in the same manner as under the provisions of this part of this act for the purpose of estate duty (*gg*).

Local Taxation Grant.

19. In substitution for the grant out of the probate duties under the Local Government Act, 1888 (*h*), the Probate Duty (Scotland and Ireland) Act, 1888 (*i*), and the Local Government (Scotland) Act, 1889 (*k*), there shall be paid, out of the proceeds of the estate duty derived from personal property (*l*), such sum as the commissioners, in accordance with regulations made by the treasury under those acts, may determine to be an amount equal to one and a half per cent. on the net value of such of the property in respect of which estate duty is leviable as would, if this act had not been passed, have been chargeable with the duty imposed by section twenty-seven (*m*) of the Customs and Inland Revenue Act, 1881, on inland revenue affidavits, and the first-mentioned acts shall apply, as if the sum so determined were the probate duty grant or one half of the proceeds of

57 & 58 Vict.
c. 30, ss. 18,
19.

Adaptation
of law as to
probate duty
grant.

(*e*) Under s. 40 of the act of 1853, and s. 22 of the act of 1888.

(*ee*) This sub-section effects an important change where the successor is not a limited owner. By s. 21 of the Succession Duty Act, 1853, the interest of *any* successor in real estate was considered to be of the value of an annuity, *for his life only*, equal to the value of the property, which annuity was directed to be valued according to tables scheduled to the act, by virtue of which, if, e.g., the successor was old, the dutiable value would be much less than the principal value.

(*f*) See s. 7, especially sub-s. 8.

(*g*) For definition, see s. 22(1) (*g*).

(*gg*) See s. 7 (5).

(*h*) 51 & 52 Vict. c. 41. See s. 21, by which the inland revenue became bound, after the financial year ending the 31st March, 1889, to pay into the bank of England to

the "local taxation account," four-fifths of one-half of the probate duty monies collected by them, for distribution amongst the counties in England and Wales.

(*i*) 51 & 52 Vict. c. 60, by which the remaining one-fifth of one-half of the probate duty monies is assigned to Scotland and Ireland in the proportion of eleven hundredth parts to Scotland, and nine hundredth parts to Ireland.

(*k*) 52 & 53 Vict. c. 50, s. 21.

(*l*) In Scotland this (see s. 23 (8)) means "moveable property," but in England, as s. 22 contains no definition, it would seem to have its ordinary legal meaning so as to include leaseholds, which by s. 19 of the Succession Duty Act, 1853, are not subject to legacy duty, but to succession duty.

(*m*) I.e., the three per cent. probate, &c. duty.

57 & 58 Vict.
c. 30, ss. 19—
21.

the sums collected in respect of the probate duties (as the case requires) within the meaning of those acts.

British Possessions.

Exception as
to property
in British
possessions.

20.—(1) Where the commissioners are satisfied, that in a British possession to which this section applies, duty is payable by reason of a death in respect of any property situate in such possession and passing on such death, they shall allow a sum equal to the amount of that duty to be deducted from the estate duty payable (*ma*) in respect of that property on the same death.

(2) Nothing in this act shall be held to create a charge for estate duty on any property situate in a British possession (*mb*), while so situate, or to authorise the commissioners to take any proceedings in a British possession for the recovery of any estate duty.

(3) Her majesty the queen may, by order in council, apply this section to any British possession, where her majesty is satisfied that, by the law of such possession, either no duty is leviable in respect of property situate in the united kingdom when passing on death, or that the law of such possession as respects any duty so leviable is to the like effect as the foregoing provisions of this section.

(4) Her majesty in council may revoke any such order, where it appears that the law of the British possession has been so altered that it would not authorise the making of an order under this section.

Savings and Definitions.

Savings for
certain dispo-
sitions of
persons dying
before act.

21.—(1) Estate duty shall not be payable on the death of a deceased person in respect of personal property (*n*) settled by a will or disposition made by a person dying before the commencement of this part (*o*) of this act, in respect of which property any duty mentioned in paragraphs one and two of the first schedule to this act, or the duty payable on any representation or inventory under any act in force before the Customs and Inland Revenue Act, 1881, has been paid or is payable, unless in either case the deceased was at the time of his death, or at any time since the will or disposition took effect had been competent to dispose of (*p*) the property.

(2) Where a person died before the commencement of this part of this act, the duties mentioned in the first schedule to this act shall continue to be payable in like manner in all respects as if this act had not passed.

(3) Where an interest in expectancy (*q*) in any property has, before the commencement of this part of this act, been *bonâ fide* sold or mortgaged for full consideration in money or money's worth, then no other duty on such property shall be payable by the purchaser or mortgagee when the interest falls into possession, than would have been payable if this act had not passed; and in the case of a mortgage, any higher duty payable by the mortgagor shall rank as a charge subsequent to that of the mortgagee (*qq*).

Interest in
expectancy.

(*ma*) Under this act, see s. 2 (2); neither that section nor this applies to real estate abroad.

(*mb*) Qu., whether colonial inscribed stock is situate in the colony.

(*n*) Including leaseholds; see note

(*l*) to s. 19.

(*o*) I.e., before the 2nd August, 1894; see s. 24.

(*p*) See s. 22 (2).

(*q*) Defined s. 22 (1) (j).

(*qq*) Compare s. 9 (6), ante.

(4) The settlement estate duty of one per cent. shall not be payable in respect of property settled by a disposition which has taken effect ^(r) before the commencement of this part of this act. 57 & 58 Vict. c. 30, ss. 21, 22.

(5) Where a husband or wife is entitled, either solely or jointly with the other, to the income of any property settled *by the other* under a disposition which has taken effect before the commencement of this part of this act, and on his or her death the survivor becomes entitled to the income of the property settled by such survivor, estate duty shall not be payable in respect of that property until the death of the survivor ^(s). Husband and wife.

22.—(1) In this part of this act, unless the context otherwise requires :— *Definitions.*

- (a) The expressions “deceased person” and “the deceased” mean a person dying after the commencement of this part of this act : “Deceased.”
- (b) The expression “will” includes any testamentary instrument : “Will.”
- (c) The expression “representation” means probate of a will or letters of administration : “Representation.”
- (d) The expression “executor” means the executor or administrator of a deceased person, and includes, as regards any obligation under this part of this act, any person who takes possession of or intermeddles with the personal property of a deceased person ^(t) : “Executor.”
- (e) The expression “estate duty” means estate duty under this act : “Estate duty.”
- (f) The expression “property” includes real property and personal property and the proceeds of sale thereof respectively and any money or investment for the time being representing the proceeds of sale : “Property.”
- (g) The expression “agricultural property” means agricultural land pasture and woodland, and also includes such cottages, farm buildings, farm houses, and mansion houses (together with the lands occupied therewith) as are of a character appropriate to the property : “Agricultural property.”
- (h) The expression “settled property” means property comprised in a settlement : “Settled property.”
- (i) The expression “settlement” means any instrument, whether relating to real property or personal property, which is a settlement within the meaning of section two of the Settled Land Act, 1882 ^(u), or if it related to real property would be a settlement within the meaning of that section, and includes a settlement effected by a parol trust : “Settlement.”

(*r*) I.e., by a disposition which has resulted in a transfer of the settled property from the settlor to the trustees, &c. See s. 2 (3), ante.

(*s*) See further as to husband and wife, ss. 4, 5 (1) (*a*), 15 (3).

(*t*) The executor derives his title from the will, and can act as such before probate (which is only evidence of his title), though he is accountable for estate duty within six months of his first acting (see s. 6 (6)); but the administrator derives his title from the letters of administration, before the grant of

which he has no legal powers.

An executor *de son tort* is one who deals with an estate without any appointment by the deceased owner or by a court; he is apparently liable for the payment of legacy duty by s. 6 of the Legacy Duty Act, 1796, and of succession duty by s. 44 of the Succession Duty Act, 1853, which enactments, however, contain no words so directly including him as the present enactment does with reference to estate duty.

(*u*) 45 & 46 Vict. c. 38. By s. 2 of that act “any deed, will,

7 & 58 Vict.
c. 30, ss. 22,
23.

"Interest in
expectancy."
"Incum-
brances."
"Property
passing."

"Commis-
sioners."

"Inland
revenue
affidavit."

"Prescribed."

"Competent
to dispose of."

"General
power."

44 & 45 Vict.
c. 38.

Dower and
curtesy
estates.

Application
of part of act
to Scotland.

- (j) The expression "interest in expectancy" includes an estate in remainder or reversion and every other future interest whether vested or contingent, but does not include reversions expectant upon the determination of leases :
- (k) The expression "incumbrances" includes mortgages and terminable charges :
- (l) The expression "property passing on the death" includes property passing either immediately on the death or after any interval, either certainly or contingently, and either originally or by way of substitutive limitation, and the expression "on the death" includes "at a period ascertainable only by reference to the death :"
- (m) The expression "the commissioners" means the commissioners of inland revenue :
- (n) The expression "inland revenue affidavit" means an affidavit made under the enactments specified in the second schedule to this act with the account and schedule annexed thereto :
- (o) The expression "prescribed" means prescribed by the commissioners.
- (2) For the purposes of this part of this act—
- (a) A person shall be deemed competent to dispose of property if he has such an estate or interest therein or such general power as would, if he were sui juris, enable him to dispose of the property, including a tenant in tail whether in possession or not; and the expression "general power" includes every power or authority enabling the donee or other holder thereof to appoint or dispose of property as he thinks fit, whether exerciseable by instrument inter vivos or by will, or both, but exclusive of any power exerciseable in a fiduciary capacity under a disposition not made by himself, or exerciseable as tenant for life under the Settled Land Act, 1882, or as mortgagee :
- (b) A disposition taking effect out of the interest of the deceased person shall be deemed to have been made by him, whether the concurrence of any other person was or was not required :
- (c) Money which a person has a general power to charge on property shall be deemed to be property of which he has power to dispose.
- (3) This part of this act shall apply to property in which the wife or husband of the deceased takes an estate in dower or by the curtesy or any other like estate, in like manner as it applies to property settled by the will of the deceased.

Application to Scotland.

23. In the application of this part of this act to Scotland unless the context otherwise requires :—

agreement for a settlement, or other agreement, covenant to surrender, copy of court roll, act of parliament, or other instrument, or any number of instruments, whether made or passed before or after, or partly before and partly after the commencement" of that act, "under or by virtue of which instrument or

instruments, any land, or any estate or interest in land, stands for the time being limited to or in trust for any persons by way of succession, creates or is for purposes" of that act "a settlement, and is" in that act "referred to as a settlement, or as the settlement, as the case requires."

- (1) The court of session shall be substituted for the high court : 57 & 58 Vict.
c. 30, s. 23.
- (2) "Sheriff court" shall be substituted for "county court :"
- (3) "Confirmation" shall be substituted for "representation :"
- (4) The expression "receiver of the property and of the rents and profits thereof," means a judicial factor upon the property :
- (5) The expression "inland revenue affidavit," means the inventory of the personal estate of a deceased now required by law, and includes an additional inventory :
- (6) The expression "on delivering the inland revenue affidavit" means on exhibiting and recording a duly stamped inventory as provided by section thirty-eight of the act of the forty-eighth year of the reign of king George the third, chapter one hundred and forty-nine :
- (7) Section thirty-four of the Customs and Inland Revenue Act, 1881, shall be substituted for section thirty-three of that act, and the acts referred to in such section thirty-four shall extend to an estate of a gross value not exceeding five hundred pounds, and an application under the said acts may be made to any commissary clerk, and any commissary clerk shall affix the seal of the court to any representation granted in England or Ireland upon the same being sent to him for that purpose, enclosing a fee of two shillings and sixpence : 44 Vict. c. 12.
- (8) The expression "personal property" means moveable property :
- (9) The expression "real property" includes heritable property :
- (10) The expression "incumbrance" includes any heritable security, or other debt or payment secured upon heritage :
- (11) The expression "executor" means every person who as executor, nearest of kin, or creditor, or otherwise, intromits with or enters upon the possession or management of any personal property of a deceased person :
- (12) The property comprised in any special assignation or disposition taking effect on death shall be deemed to pass on death within the meaning of this act :
- (13) The expression "trustee" includes a tutor, curator, and judicial factor :
- (14) The expression "settled property" shall not include property held under entail :
- (15) An institute or heir of entail in possession of an entailed estate shall whether sui juris or not be deemed for the purposes of this act to be a person competent to dispose of such estate :
- (16) Where an entailed estate passes on the death of the deceased to an institute or heir of entail, who is not entitled to disentail such estate without either obtaining the consent of one or more subsequent heirs of entail or having the consent of such one or more subsequent heirs valued and dispensed with, settlement estate duty as well as estate duty shall be paid in respect of such estate, but neither estate duty nor settlement estate duty shall be payable again in respect of such estate, until such estate is disentailed, or until an heir of entail to whom it passes on or subsequent to the death of the institute or heir first mentioned, and who is entitled to disentail it without obtaining the consent of any subsequent heir or heirs or having the consent of any subsequent heir or heirs valued and dispensed with, dies :

57 & 58 Vict.
c. 30, s. 23.

- (17) Where an institute or heir of entail in possession of an entailed estate, who is not entitled to disentail such estate without either obtaining the consent of one or more subsequent heirs of entail or having the consent of such one or more subsequent heirs valued and dispensed with, has paid estate duty in respect of such estate, and afterwards disentaills such estate, he shall be entitled to deduct from the value in money of the expectancy or interest in such estate of such one or more subsequent heirs, payable by him to them in respect of their consents having been granted or dispensed with, a proper rateable part of the estate duty paid by him as aforesaid:
- (18) Where any person who pays estate duty on any property, and in whom the property is not vested, is by this act authorised to raise such duty by the sale or mortgage of that property, or any part thereof, it shall be competent for such person to apply to the court of session—
- (a) for an order of sale of the property or part of it, and in the event of the court granting such order, it shall provide for the payment out of the price of the amount of the estate duty which has been paid by such person, and the court shall thereafter make such order as to the disposal of the surplus, if any, of the price, by way of investment or otherwise, as to the court shall seem proper; the court may in such order specify the time and place at which, the person by whom and the advertisement or notice after which the sale shall be made, and may ordain the person in whom the property is vested to grant a disposition thereof in favour of the purchaser, and if the person in whom the property is vested refuses or fails to do so, the court shall grant authority to the clerk of court to execute such disposition, and such disposition so executed shall be as valid as if it had been executed by the person in whom the property is vested; or
 - (b) for an order ordaining the person in whom the property is vested to grant a bond and disposition in security over the property in favour of the person who has paid the estate duty, for the amount of the said duty, and if the person in whom the property is vested refuses, or fails to do so, the court shall grant authority to the clerk of court to execute such a bond and disposition in security, and such bond and disposition in security so executed shall be as valid as if it had been executed by the person in whom the property is vested, and shall be a first charge upon the property after any debt or incumbrance for which an allowance is directed to be made under this act in determining the value of the property for the purpose of estate duty;
- Provided also that summary diligence shall not be competent thereupon, and that nothing herein contained shall make the duty to be recovered by the methods of these sub-sections (a) and (b) recoverable at any earlier time than if it had been recovered by direct action against the person ultimately liable for the duty:
- (19) This part of this act shall apply to property in which the wife or husband of the deceased takes an estate of terce or courtesy or any other like estate in like manner as it applies to property settled by the will of the deceased.

*Commencement.*57 & 58 Vict.
c. 30, ss. 24—
28.

24. This part of this act shall come into operation on the expiration of the first day of August one thousand eight hundred and ninety-four, in this part of this act referred to as the commencement of this part of this act.

Commence-
ment of part
of act.

PART II.—CUSTOMS.

25. The duty of customs now payable on tea shall continue to be charged and paid, on and after the first day of August one thousand eight hundred and ninety-four until the first day of August one thousand eight hundred and ninety-five, on the importation thereof into Great Britain or Ireland; (that is to say,)

Duty on tea.

Tea, the pound Fourpence.

26. In addition to the duties of customs now payable on beer of the descriptions called mum, spruce, or black beer, imported into Great Britain or Ireland, there shall be charged and paid on and after the seventeenth day of April one thousand eight hundred and ninety-four until the first day of July one thousand eight hundred and ninety-five the duties following; (that is to say,)

Addition to
customs duties
on special
kinds of beer.

For every thirty-six gallons of beer where the worts thereof £ s. d.
are or were before fermentation of a specific gravity—

Not exceeding one thousand two hundred and fifteen
degrees 0 2 0

Exceeding one thousand two hundred and fifteen
degrees 0 2 4

This section shall extend to Berlin white beer, and other preparations whether fermented or not fermented, of a character similar to mum, spruce, or black beer.

27. In addition to the duties of customs now payable on every description of beer (other than is specified in the last preceding section) imported into Great Britain or Ireland, there shall be charged and paid on and after the seventeenth day of April one thousand eight hundred and ninety-four until the first day of July one thousand eight hundred and ninety-five the duty following; (that is to say,)

Addition to
customs duty
on all other
beer.

For every thirty-six gallons where the worts thereof were £ s. d.
before fermentation of a specific gravity of—One thousand

and fifty-five degrees 0 0 6

and there shall be allowed and paid in and for the same period in respect of all such beer a similar addition to the drawback granted on exportation, shipment for use as stores or removal to the Isle of Man by section four of the Customs and Inland Revenue Act, 1881. And so as to both duty and drawback, in proportion for any difference in gravity

44 Vict. c. 12.

28. In addition to the duties of customs now payable on spirits imported into Great Britain or Ireland there shall be charged and paid on and after the seventeenth day of April, one thousand eight hundred and ninety-four until the first day of July one thousand eight hundred and ninety-five the duties following; (that is to say,)

Additional
duties of
customs on
spirits.

For every gallon computed at proof, of spirits of any £ s. d.
description (except perfumed spirits) including naphtha
or methylic alcohol, purified so as to be potable, and
mixtures and preparations containing spirits 0 0 6

57 & 58 Vict.
c. 30, ss. 28—
32.

	£	s.	d.
For every gallon of perfumed spirits	0	0	10
For every gallon of liqueurs, cordials, mixtures, and other preparations entered in such a manner as to indicate that the strength is not to be tested	0	0	8

Alteration of
customs duties
on certain
goods contain-
ing spirits.

And the duties of customs on the articles herein-after mentioned, being articles of which spirits are a part or ingredient, shall be proportionately increased, and there shall accordingly be charged and paid on and after the seventeenth day of April one thousand eight hundred and ninety-four, until the first day of July one thousand eight hundred and ninety-five the duties following; (that is to say,)

	£	s.	d.
Chloral hydrate the pound	0	1	4
Chloroform the pound	0	3	3
Collodion the gallon	1	6	3
Ether, acetic the pound	0	1	11
Ether, butyric the gallon	0	16	5
Ether, sulphuric the gallon	1	7	5
Ethyl, iodide of the gallon	0	14	3

This section shall not affect the continuance after the thirtieth day of June, one thousand eight hundred and ninety-five, of the duties existing prior to this section taking effect.

PART III.—EXCISE.

Additional
duty of excise
on beer.

29. In addition to the duty of excise now payable in respect of beer brewed in the united kingdom there shall be charged and paid on and after the seventeenth day of April one thousand eight hundred and ninety-four, until the first day of July one thousand eight hundred and ninety-five—

For every thirty-six gallons of worts of a specific gravity of one thousand and fifty-five degrees the duty of sixpence,
and so in proportion for any difference in quantity or gravity.

Additional
excise draw-
back on beer.

30. In addition to the drawback of excise now payable in respect of beer exported from the united kingdom as merchandise or shipped for use as ship's stores there shall be allowed and paid in respect of beer brewed in the united kingdom between the sixteenth day of April one thousand eight hundred and ninety-four, and the first day of July, one thousand eight hundred and ninety-five—

For every thirty-six gallons of beer of an original gravity of one thousand and fifty-five degrees the drawback of sixpence,
and so in proportion for any difference in quantity or gravity.

Additional
duty of excise
on spirits.

31. In addition to the duty of excise now payable for every gallon computed at proof of spirits distilled in the united kingdom, there shall be charged and paid on and after the seventeenth day of April, one thousand eight hundred and ninety-four, until the first day of July, one thousand eight hundred and ninety-five, the duty of sixpence, and so in proportion for any less quantity.

Additional
duties to be
added to the
price of
articles con-
tracted for.

32. Where, before the seventeenth day of April one thousand eight hundred and ninety-four, any person shall have contracted for the sale of spirits or beer without reference to the duties of excise thereon granted by this act, it shall be lawful for such person, and he is hereby authorised to

receive from the purchaser, and sue for and recover the equivalent in money of the excess of such duties over the duties which would have been payable if this act had not been passed.

57 & 58 Vict.
c. 30, ss. 32—
34.

PART IV.—INCOME TAX.

33.—(1) There shall be charged, collected, and paid for the year which commenced on the sixth day of April one thousand eight hundred and ninety-four, in respect of all property, profits, and gains mentioned or described as chargeable in the Income Tax Act, 1853, the following duties of income tax ; (that is to say,)

Grant of
duties of
income tax.
16 & 17 Vict.
c. 34.

For every twenty shillings of the annual value or amount of property, profits, and gains chargeable under schedules (A.), (C.), (D.), or (E.), of the said act the duty of eightpence.

And for every twenty shillings of the annual value of the occupation of lands, tenements, hereditaments, and heritages chargeable under schedule (B.) of the said act—

In England, Scotland, and Ireland respectively, the duty of threepence.

(2) All such provisions contained in any act relating to income tax as were in force on the fifth day of April, one thousand eight hundred and ninety-four, shall have full force and effect with respect to the duties of income tax hereby granted so far as the same are consistent with this act.

34. The provisions of the Income Tax Acts with respect to the exemption granted to persons whose respective incomes are less than one hundred and fifty pounds a year (*x*), shall extend to persons whose respective incomes do not exceed one hundred and sixty pounds a year, and in lieu of the relief or abatement from income tax granted by section eight of the Customs and Inland Revenue Act, 1876 (*y*), to persons whose respective incomes are less than four hundred pounds a year, the following provisions shall have effect :—

Exemption
where income
does not
exceed 160*l*.
and abatement
where income
does not
exceed 500*l*.
39 & 40 Vict.
c. 16.

(1) Any person who shall be assessed or charged to any of the duties of income tax granted by this act, or who shall have paid the same either by deduction or otherwise, and who shall claim and prove in the manner prescribed by the Income Tax Acts, that his total income from all sources, although exceeding one hundred and sixty pounds or upwards, does not exceed five hundred pounds, shall be entitled to relief or abatement as follows :—

(*x*) As to this exemption (which was allowed by the original Income Tax Act, 1842 (5 & 6 Vict. c. 35), but cut down to incomes less than 100*l*. by the Income Tax Act, 1853, and restored to the 150*l*. by s. 8 of the Customs and Inland Revenue Act, 1876), see ss. 163—170 of the Income Tax Act, 1842, Chit. Stat. (4th ed.) vol. v. tit. "*Property Tax*," which prescribe the mode of claiming exemption, impose a penalty of 20*l*. and treble duty for making audulent claims, and allow trus-

tees' solicitors and others to claim exemptions for the benefit of beneficiaries, &c.

(*y*) 39 & 40 Vict. c. 16, Chit. Stat. (4th ed.) vol. v. tit. "*Property Tax*," by which a person proving that his total income from all sources, although amounting to 150*l*. or upwards, was less than 400*l*. became entitled to be relieved from so much of the tax as the charge of it upon 120*l*. of his income would amount to.

57 & 58 Vict.
c. 30, ss. 34,
35.

- (a) If the total income of such person does not exceed four hundred pounds, to relief from so much of the said duties assessed upon or paid by him as an assessment or charge upon one hundred and sixty pounds of his income would amount to; and
- (b) If the total income of such person exceeds four hundred pounds, and does not exceed five hundred pounds, to the relief from so much of the said duties assessed upon or paid by him as an assessment or charge upon one hundred pounds of his income would amount to.

(2) Where the total joint income of a husband and wife charged to income tax, by way either of assessment or deduction, does not exceed five hundred pounds and, upon any claim under this section, the commissioners for the general purposes of the acts relating to income tax are satisfied that such total income includes profits of the wife derived from any profession, employment, or vocation chargeable under schedule D, or from any office or employment of profit chargeable under schedule E, they shall deal with such claim as if it were a claim for exemption or relief or abatement as the case may be in respect of such profits of the wife, and a separate claim, on the part of the husband, for exemption or relief or abatement in respect of the rest of such total income.

Relief in
respect of
income tax
under
Schedule A.
5 & 6 Vict.
c. 35.

35. In respect of the income tax hereby imposed under schedule A., where the tax is charged upon annual value (*yy*) estimated otherwise than by relation to profits, the following provisions shall have effect:—

- (a) In the case of an assessment on lands inclusive of the farmhouse and other buildings (if any), the amount of the assessment shall, for the purposes of collection, be reduced by a sum equal to one-eighth part thereof; and
- (b) In the case of an assessment upon any house or building (except a farmhouse or building included with lands in assessment), the amount of the assessment shall, for the purposes of collection, be reduced—
 - (i.) Where the owner is occupier or assessable as landlord, or where a tenant is occupier and the landlord undertook to bear the cost of repairs, by a sum equal to one-sixth part of that amount; and
 - (ii.) Where a tenant is occupier and undertook to bear the cost of repairs, by such a sum not exceeding one-sixth part of that amount, as may be necessary to reduce it to the amount of rent payable by him.
- (c) As between the owner and a mortgagee of his property, or any person having a charge thereon or entitled to any ground-rent, rent-charge, annuity, or other annual sum payable thereout, the owner's right of deduction under the Income Tax Acts in respect of income tax shall be in no wise prejudiced or affected by the relief afforded by this section.
- (d) Where the amount of the assessment in the case of lands (inclusive of the farmhouse and other buildings) is more than one-eighth, and in the case of any house or building (except a farmhouse or building included with lands in assessment) is more than one-sixth, below the rent, after deducting from such rent any outgoing which should by law be deducted in making the assessment, this section shall not apply.

(*yy*) I.e., gross annual value under ante, for estate duty, and to the that schedule. This section seems metropolis.
to apply to valuations under s. 7 (5),

36.—(1) Any penny savings bank, or other bank for savings, whether certified under the Savings Bank Act, 1863 (z), or not, shall be entitled to exemption from income tax chargeable under schedules C. and D. of the acts relating to income tax in respect of the income of the funds of the savings bank, so far as it is applied in the payment or credit of interest to any depositor not exceeding the sum of five pounds in the year for which exemption is claimed.

57 & 58 Vict.
c. 30, ss. 36—
38.

Exemption of
income tax
in favour
of savings
banks.

(2) The exemption shall be claimed, proved, and allowed in the same manner as is prescribed by law in the case of income applicable and applied to charitable purposes (zz).

(3) Provided that where interest is paid, or dividends or interest are or is credited without deduction of income tax to a depositor in any savings bank whose income exceeds one hundred and sixty pounds a year, such interest, or dividends or interest, as the case may be, shall be accounted for and charged under the third case of schedule D under which profits of an uncertain annual value are directed to be charged.

37 (a).—(1) The sum charged as the annual value of any property, elsewhere than in the metropolis as defined by the Valuation (Metropolis) Act, 1869 (b), in the assessment of income tax thereon for the year which commenced on the sixth day of April, one thousand eight hundred and ninety-three, shall be taken as the annual value of such property for the assessment and charge thereon of the duties of income tax hereby granted under schedules (A.) and (B.).

Assessment
of income
tax under
Schedules (A.)
and (B.) and
of the in-
habited house
duties for
the year
1894—95.

(2) The sum charged as the annual value of every inhabited house elsewhere than in the said metropolis made thereon for the year which commenced as respects England on the sixth day of April, one thousand eight hundred and ninety-three, and as respects Scotland on the twenty-fifth day of May, one thousand eight hundred and ninety-three, shall be taken as the annual value of the inhabited house for the assessment and charge thereon of the duties on inhabited houses as respects England for the year which commenced on the sixth day of April, one thousand eight hundred and ninety-four, and as respects Scotland for the year commencing on the twenty-fifth day of May one thousand eight hundred and ninety-four.

(3) The inspectors or surveyors of taxes shall be the assessors of the said duties of income tax under schedules (A.) and (B.), and of the said duties on inhabited houses.

38 (a).—(1) Where, in the case of any dividends, interest, or other annual profits or gains due or payable half-yearly or quarterly in the course of the said year which commenced on the sixth day of April one thousand eight hundred and ninety-four, any half-yearly or quarterly payments shall have been made prior to the passing of this act, the duty of income tax hereby granted, or so much by relation to such duty as shall not have been charged thereon or deducted therefrom, shall be

Provisions
as to duty
on dividends,
&c., paid
prior to the
passing of
this act.

(z) 26 & 27 Vict. c. 87. Chit. Stat. (4th ed.) vol. v. tit. "*Savings Banks.*"

(zz) See ss. 61, 88, and 105 of the Income Tax Act, 1842.

(a) These sections follow *mutatis mutandis* common forms which have been repeated in customs and in-

land revenue acts for many years on the occasion of an increase of the income tax, &c. See, e.g., Customs and Inland Revenue Act, 1892 (55 & 56 Vict. c. 16, s. 4).

(b) 32 & 33 Vict. c. 67. Chit. Stat. (4th ed.) vol. iv. tit. "*Metro-
polis.*"

57 & 58 Vict.
c. 30, ss. 38—
41.

charged under schedule D. in respect of such payments as profits or gains not charged by virtue of any other schedule in conformity with the provision contained in the sixth case of schedule D., in section one hundred of the Income Tax Act, 1842, and the agents entrusted with the payment of the dividends, interests, or other annual profits or gains, shall furnish a list containing the names and addresses of the persons to whom payments have been made, and the amount of such payments, to the commissioners of inland revenue upon a requisition in that behalf.

(2) Where any person liable to pay any rent, interest, annuity, or other annual payment in the course of the said year shall, on making any such payment prior to the passing of this act, have not made any deduction or have made an insufficient deduction in respect of the duty of income tax hereby granted he shall be authorised to make the deduction or make up the deficiency on the occasion of the next payment in addition to any other deduction which he may by law be authorised to make.

(3) The charge or deduction of the duty of income tax at a rate not exceeding the rate hereby granted in the case of any payment made in the course of the said year prior to the passing of this act shall be deemed to have been a legal charge or deduction.

PART V.—MISCELLANEOUS.

Composition for certain Stamp Duties.

Composition
for duties
on transfers
of foreign
stocks.

39. The provisions contained in section one hundred and fourteen of the Stamp Act, 1891 (*c*), in reference to the composition for stamp duty chargeable on transfers of certain stocks, shall extend to the stock of any foreign state or government which is inscribed in the books of the bank of England.

Exemption of Coupons from Stamp Duty.

Exemption
of coupons.

40. A coupon for interest on a marketable security as defined by the Stamp Act, 1891 (*d*), being one of a set of coupons whether issued with the security or subsequently issued in a sheet, shall not be chargeable with any stamp duty (*e*).

PART VI.—IMPERIAL AND NAVAL DEFENCE LOANS.

Alteration of
Imperial and
Naval Defence
Acts.

41.—(1) All dividends or other moneys received by the treasury after the first day of July one thousand eight hundred and ninety-four in respect of Suez Canal shares shall be paid into the exchequer.

51 & 52 Vict.
c. 32.

(2) The sum by which the aggregate payments made to the naval defence account under section two of the Naval Defence Act, 1889, before the thirty-first day of March one thousand eight hundred and ninety-four, exceed the authorised expenditure of ten million pounds, or any less sum which on the completion of the contract vessels has been actually expended on those vessels, shall be paid from that account into the exchequer, and the instalments payable to the said account under the said section shall cease after the said day to be payable.

(*c*) 54 & 55 Vict. c. 39. Chit. Stat. for 1891, tit. "*Stamps*." By s. 114 of that act, composition is paid for stamp duty chargeable on transfer of Canadian and other colonial stock by the government of Canada and of other colonies.

(*d*) See s. 82 and Sched. I. of the act.

(*e*) This section appears to have been suggested by, and to get rid of the effect of *Rothschild v. Commissioners of Inland Revenue*, [1894] 2 Q. B. 142.

(3)—(a) The old sinking fund and the new sinking fund may, notwithstanding anything in the Imperial Defence Act, 1888, and the Naval Defence Acts, 1889 and 1893 (*ee*), and in addition to any other mode of application, be applied in paying off all or any part of the loan of two million six hundred thousand pounds borrowed under part ii. of the Imperial Defence Act, 1888 (in this act referred to as the imperial defence loan), and of the loan of three million one hundred and forty-six thousand pounds borrowed under the Naval Defence Act, 1889 (in this act referred to as the naval defence loan);

(b) The interest on the imperial defence loan and the naval defence loan, or on such part thereof as is for the time being outstanding, shall, so far as it would, but for this section, come unto course of payment out of the moneys provided by parliament for army services or naval services, be paid out of the permanent annual charge for the national debt, and the treasury shall, so far as regards any payments already made, make such adjustments as appear to them necessary for carrying into effect this section.

(4) Nothing in this section, nor any repeal by this section, shall affect the charge on the consolidated fund of any loan, so far as the same is required for the purpose of repaying the principal or interest of such loan to the holder of the security for the same.

(5) The acts specified in the third schedule to this act are hereby repealed to the extent and from the dates in the third column of that schedule mentioned.

57 & 58 Vict.
c. 30, ss. 41,
42.

Short Title.

42. This act may be cited as "The Finance Act, 1894" (*f*).

Short title.

SCHEDULES.

FIRST SCHEDULE.

EXISTING DUTIES REFERRED TO (*g*).

1. The stamp duties imposed by the Customs and Inland Revenue Act, 1881 (*h*), on the affidavit to be required and received from the person applying for probate or letters of administration in England or Ireland, or on the inventory to be exhibited and recorded in Scotland. Sects. 1, 5, 13, 21.

2. The stamp duties imposed by section 38 of the Customs and Inland Revenue Act, 1881, as amended and extended by section 11 of the Customs and Inland Revenue Act, 1889 (*i*), on the value of personal or moveable property to be included in accounts thereby directed to be delivered.

3. The additional succession duties imposed by section 21 of the Customs and Inland Revenue Act, 1888 (*k*).

4. The temporary estate duties imposed by sections 5 and 6 of the Customs and Inland Revenue Act, 1889 (*l*).

(*ee*) As to these acts see sched. 3, post.

(*f*) A novel title. Similar acts have hitherto usually been entitled "Customs and Inland Revenue" Acts.

(*g*) See note (*g*) to s. 1.

(*h*) 44 & 45 Vict. c. 12; see note to s. 1 of this act, ante, p. 2.

(*i*) 52 & 53 Vict. c. 7. The main amendment of s. 38 of the act of

1881 was to extend from three months to twelve the time within which gifts before death were dutiable.

(*k*) 51 & 52 Vict. c. 8; imposing an additional half per cent. on successions of issue and ancestors, and of one and a half per cent. on other successions.

(*l*) 52 & 53 Vict. c. 7; imposing additional duties of one per cent. on properties exceeding 10,000*l.* in value.

57 & 58 Vict.
c. 30.

5. The duty at the rate of one pound per cent. which would by virtue of the acts in force relating to legacy duty or succession duty have been payable under the will or intestacy of the deceased (*m*), or under his disposition or any devolution from him under which respectively estate duty has been paid, or under any other disposition under which estate duty has been paid.

SECOND SCHEDULE.

ACTS REFERRED TO.

Section 22 (1)(n).	Session and Chapter.	Title or Short Title.	Section referred to.
	55 Geo. 3, c. 184..	The Stamp Act, 1815	Section thirty-eight.
	56 Geo. 3, c. 56 . .	An act the title of which begins with the words "An act to repeal the several stamp duties" and ends with the words "managing the said duties."	Section one hundred and seventeen.
	43 Vict. c. 14	The Customs and Inland Revenue Act, 1880.	Section ten.
	44 & 45 Vict. c. 12	The Customs and Inland Revenue Act, 1881.	Sections twenty-nine and thirty-two.

THIRD SCHEDULE.

ACTS REPEALED.

Section 41 (5).	Session and Chapter.	Short Title.	Extent of Repeal.
	51 & 52 Vict. c. 32	The Imperial Defence Act, 1888.	The whole of part two and section eleven, from "The expression treasury" to "admiral," from "the expression Suez" to "1876," and from "the expression exchequer" to the end of the section, as from the passing of this act.
	52 & 53 Vict. c. 8	The Naval Defence Act, 1889.	The whole act as from the following dates: Section two, from "to provide such money" to "exchequer," being sub-sections two to five, as from the end of the last financial year before the passing of this act, and from "the principal of all securities" to the end of the section, being sub-sections six, seven, and eight, as from the 31st of December, one thousand eight hundred and ninety-two; section five, as from the completion of the audit therein mentioned; and the residue as from the end of the present financial year.
	56 & 57 Vict. c. 45	The Naval Defence Act, 1893.	The whole act as from the end of the present financial year.

(*m*) These duties are those payable by issue or ancestors under the Stamp Act, 1815, or the Succession Duty Act, 1853, but were merged

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